

TRIALS OF JAWAHARLAL NEHRU

RAM GOPAL

FOREWORD

DR RAFIQ ZAKARIA



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FOREWORD

> "Is life so dear or peace so sweet as to be purchased at the price of chains and slavery? Forbid it Almighty God! I know not what course others may take, but as for me, give me liberty, or give me death!"
>
> PATRICK HENRY, in a speech before the Virginia House of Delegates, 23 March 1775

From a strictly legal point of view the trials of Jawaharlal Nehru are not of much significance, none of them was conducted before any Judge of stature or eminence nor did any one of them decide any point of law But in that sense the trial of Socrates or even of Christ was no better and still the importance of such trials cannot be gainsaid, they have become a part of recorded history It is more in the moral plane that their value lies, the spotlighting that they do of the particular urges that had gripped millions of their followers and the impetus that they gave to causes which their leaders symbolised.

True, these trials were conducted according to the ordinary legal procedure of those days and in the same manner as other ordinary trials; but because of the particular individuals involved in such trials they assumed an extraordinary colour. That was the reason why the results of those trials were watched by people, who followed them, with the greatest interest The trials resulted mostly in conviction of one kind or the other—Socrates had to drink the hemlock, Christ, to face the scaffold and Gandhi, to undergo many years in imprisonment but their sufferings were an essential part of the inspiration that the "accused" provided, they gave a new dynamism to their leadership

The sanctity that comes to be attached to them is not so much because of the trials as such but on account of the role that a particular individual happened to play therein, symbolising in himself the clash between the decaying "present" and

the blossoming "future", that gripped the environment Such conflict had necessarily to be above the ordinary laws of the time, representing as it did the larger conflict between the thesis and the antithesis And since a particular individual became a hero of that drama, so to say, it was round him that the whole plot revolved, naturally he acquired supreme importance And it was because of his efforts that a new vista of freedom—freedom either from bigotry or from immorality or from slavery—opened, which promised a new habitation to the downtrodden and the suppressed

True, this makes the man the hero in the Carlylean sense which is far too sweeping a proposition to be acceptable to scientific historians But even Hegel had to admit, despite his theory that the spirit of the times was more important than the hero, that the hero possessed "an insight into the requirements of the time". Similarly, Spencer characterised the hero as the "medium for social change", not so much by an empirical conviction of world affairs but by simple deduction from his ideas of social evolution. Only to Engels—one of the high priests of Marxism—"the development appears nothing more than a pure chance" Plekhnav tried to correct this approach by explaining that "the effect of personal peculiarities" was undeniable, but in doing so he also minimised the role of the individual in history by emphasizing the effect of social conditions

I do not propose to dilate here on this subject, because it is never-ending and the opinions of scholars are too varied, moreover, it is not relevant to the theme of the present book Suffice it to say that, whatever be the scientific explanation of the phenomenon, without Jawaharlal Nehru, India's struggle for freedom would not have had the dynamism and certainly not that international content which it possessed, if Gandhi gave it the moral tone it was Nehru who gave it the intellectual bias That is the reason why the trials of Nehru, which are all embodied in this ably produced volume, are important as showing the currents and cross-currents of that struggle, and, in some respects, even of that age. They differ from the trial of Tilak in 1908 or that of

Gandhi in 1922 In the trials of both the elder leaders, the charge was similar—one of sedition—with which Nehru was often charged But the trials of these leaders were conducted in different settings, which gave them more legal glamour and even judicial dignity

The Judge who tried Tilak—Mr Justice Davar—gave, no doubt, a poor example of himself and though he adhered to procedure, he became so aggressive in the end that he called Tilak a man "with a diseased and perverted mind" and described his activities in such intemperate words as "You hail the advent of the bomb in India as if something has come to India for its good I say, such journalism is a curse to the country". Provoked by such behaviour Tilak declared in a memorable passage which has become an imperishable part of Indian History "All that I wish to say is that, in spite of the verdict of the jury, I still maintain that I am innocent There are higher powers that rule the destinies of men and nations; and I think, it may be the will of Providence that the cause I represent may be benefited more by my suffering than by my pen and tongue" In contrast to the behaviour of Mr. Justice Davar who tried to be more loyal than the King in the discharge of his judicial duties the attitude of Mr Justice Broomfield who tried Gandhi was in the best traditions of British Justice Unlike Tilak, Gandhi pleaded guilty to the charge of sedition and admitted in the Court that the Advocate-General was right when he said that "as a man of responsibility, a man having received a fair share of education and experience of this world, I should know the consequences of my acts I knew them I knew that I was playing with fire I ran the risk, and if I am set free, I would still do the same".

In pronouncing the sentence this is what Mr Justice Broomfield said "Mr. Gandhi, you have made my task easy in one way by pleading guilty to the charge Nevertheless, what remains namely the determination of a just sentence, is perhaps as difficult a proposition as a Judge in this country could have to face The law is no respecter of persons Nevertheless, it would be impossible to ignore the fact that you are in a different

category from any person I have ever tried or am likely ever to try. It would be impossible to ignore the fact that in the eyes of millions of your countrymen you are a great patriot and a great leader, even all those who differ from you in politics look up to you as a man of high ideals and of noble and even saintly life. I have to deal with you in one character only It is not my duty, and I do not presume to judge or criticise you in any other character It is my duty to judge you as a man subject to the law, who has by his own admission broken the law, and committed what to an ordinary man must appear to be a grave offence against such law I do not forget that you have consistently preached against violence, or that you have on many occasions, as I am willing to believe, done much to prevent violence

"But having regard to the nature of your political teaching and the nature of many of those to whom it was addressed, how you can have continued to believe that violence and anarchy would not be the inevitable consequence, it passes my capacity to understand There are probably few people in India who do not sincerely regret that you should have made it impossible for any Government to leave you at liberty But it is so I am trying to balance what is due to you against what appears to me to be necessary in the interest of the public, and I propose, in passing sentence, to follow the precedent of the case, in many respects similar to this case, that was decided some twelve years ago, the case of Mr Bal Gangadhar Tilak, under the same section The sentence that was passed upon him as it finally stood, was a sentence of simple imprisonment for six years You will not consider it unreasonable, I think, that you should be classed with Mr Tilak, and that is the sentence—two years' simple imprisonment on each count of the charge,—six years in all, which I feel it my duty to pass upon you" The Judge then added, "if the course of events in India should make it possible for Government to reduce the period and release you, nobody would be better pleased than I"

In these trials one misses such moving judicial pronouncements, these are, however, more than made up by the statements

of the "accused" which are poems in patriotic fervour, couched in the finest English In the first trial which took place on December 17, 1921, Nehru refused to plead and only stated that he did not recognise either the Government or the Court and regarded his trial as a farce In the second trial he put in a written statement wherein he ridiculed the application of the various sections of the Indian Penal Code to his case—giving a glimpse of the legal acumen that he possessed—but considered it a good fortune to suffer for his country's sake As he put it, "To serve India in the battle of freedom is honour enough. To serve her under a leader like Mahatma Gandhi is doubly fortunate But to suffer for the dear country; what greater good fortune could befall an Indian unless it be death for the cause or the full realisation of our glorious dream." As compared to Nehru's statement the judgment of the District Magistrate makes a dull and drab reading though it covers many pages In the third trial Nehru came face to face with a Feudal Court and he was amazed at what he himself has described as· "the most extraordinary and Gilbertian proceedings" that took place there. The Magistrate or Judge was not only uneducated; he knew neither English nor the court language—Urdu; nor was he able to write a line in any other language Nehru has described the trial in his own inimitable style and those who are interested to know as to what the Indian States were, can learn much from his graphic account of his own trial in Nabha There were then the trials in defiance of the Salt Law and though he did not defend himself because to use his own words: "the idea of defence even when it was manifestly permitted seemed almost indecent"; he continued to make statements in Courts which galvanised the people of India In one of his trials which took place before the Chief Presidency Magistrate of Calcutta on February 13, 1934, Nehru as usual refused to plead but exercised his right to make a statement He had hardly begun when the Public Prosecutor looking into the eyes of the Chief Presidency Magistrate interjected. "Is the accused entitled to make another seditious speech here, Sir?" The Chief Presidency Magistrate suddenly became conscious of his responsibility and asked Nehru

to proceed no further There was silence for a few moments and then the Chief Presidency Magistrate pronounced the judgement which had neither grace nor dignity about it and was as poor in its contents as the personality of the author himself Sometimes, even when the prosecution failed to substantiate the charges against Nehru, Nehru himself provided the grounds by his statement in Court As a District Magistrate put it, while delivering his judgement "the accused has admitted in his statement after the charge was read out to him, that it was his particular function and privilege in life to spread disaffection against the crown representative in India and the Government established by law in India This in itself is sufficient for his conviction"

In the proceedings, however, Nehru hardly took any interest; sometimes he would get annoyed at the bad translation of his speech and reprimand the Court officials Here is an example.

QUESTION Did you, at a meeting at the Purushottam Das Park, on October 12th, 1930, deliver the speech read out to you?

ANSWER: I am not taking any particular part in these proceedings. I do not congratulate this gentleman (the witness) on his power of reporting Probably, the speech was above him. I consider myself a far better speaker than he makes me out to be

All these and many other interesting aspects of the trials of Nehru the reader will come across in this book It not only gives the proceedings in Courts and the various statements made by Nehru during his trials but also a copious background of each trial In some trials one sees the effect of the Non-Cooperation Movement; in others the impact of the Civil Disobedience Movement; and in still others the devastating jolt that British Imperialism received just before the Quit India Movement In that sense this book is an epitome of the various phases of India's struggle for freedom, it brings out in their stark reality the sufferings and tribulations of millions of people, who suffered so that their country might be free The author has

worked hard, done considerable research and has presented the results of that research in a pleasing, readable style which makes the book both interesting and informative. I congratulate, therefore, Mr. Ram Gopal on a difficult job well done, it is the first endeavour of its kind and makes a valuable contribution to the growing Nehru literature

Bombay
21st July 1962

RAFIQ ZAKARIA

PREFACE

In India, mass movements for freedom began in 1919, and with them inevitably began political trials and convictions The accused did not recognise the courts of law established in India, and, for all practical purposes, did not participate in their trials The trying magistrates went through the proceedings mechanically, and convictions were, almost always, foregone conclusions Prosecutions were not always justiciable, and the prosecutors did not care to make them so, being certain that the accused would offer no defence. In this way tens of thousands of men and women were tried and imprisoned; their case files lie stacked in judicial record rooms of the magistrates, who acted both as prosecutors and judges.

The trials of a single individual, who participated in all political movements ever since Gandhi assumed leadership of the Indian National Congress, can not only serve as a complete sample of the political trials of those days but give a bird's eye-view of the different movements There are many individuals whose trials provide complete samples, and if I have chosen Jawaharlal Nehru, it is because he was leader and follower both, and in both capacities he was ahead of others He is one of those who spent the longest terms in jail—3,262 days The other reason for the choice is quite obvious His Britannic Majesty's eminent and celebrated prisoner is now Prime Minister of a great country and one of the foremost statesmen of the world

Thirty-eight years ago, he declared (at his second trial) that 'free India may be worthy of a place in the coming order of things' These were prophetic words Britain was dangerously late in listening to them If she had liquidated her empire earlier, much of the bloodshed in India and elsewhere would have been avoided And when India became free, Britain sought for her a new order of things—the new variety of Com-

monwealth and the co-operation of the man whom her agents in India had awarded time and again long terms of imprisonment, in most cases repugnant to the letter and spirit of the law, and in other cases disproportionate to the charges

Political trials, of which the trials presented in the following pages are a sample, are a sad commentary on the rule of law. In the first trial, the magistrate framed against Nehru a charge under clause 2 of section 17 of the Criminal Law Amendment Act of 1908 The proceedings were based wholly on this clause. Later, while writing his judgment, it occurred to the magistrate that clause 2 was not applicable to the case, and he argued within himself that the accused could be punished under clause 1 of the same section In his judgment, the magistrate admits this shift in his opinion Here was a magistrate, who told the accused at the trial, 'I charge you, Pandit Jawaharlal Nehru, under section 17(2)', who heard the prosecution evidence for an offence punishable under section 17(2), and who without framing another charge and without calling upon the prosecution to adduce fresh evidence if it had any, awarded a term of six months and a fine of Rs 100 under clause 1. This was not all.

Even clause 1 was not applicable, and was employed as an excuse This clause provided for punishment of a person who 'is a member of an unlawful association' or helped that association in any way. As against this, Nehru was arrested and prosecuted for distributing handbills calling upon the people of Lucknow to suspend their business on the occasion of the visit of the Prince of Wales and not to participate in any celebrations or gatherings connected with it Neither clause 1 nor clause 2 of section 17 provided for punishment of an act like the distribution of handbills. Nehru was undoubtedly a member of the Central Volunteer Board, which body had been declared unlawful by the Government, and he had signed, along with many others, a pledge to remain a member, the pledge was in the nature of deliberate defiance of the Government order That he was punishable as a member of an unlawful association is not the point here The police sub-inspector's complaint which provided the basis for the prosecution mentioned the distribu-

tion of handbills alone, an act which was not covered by any of the law invoked by the prosecution or the magistrate. It was in the course of evidence that the sub-inspector made a mention of the meetings of the U P Congress Committee at which decisions to defy the Government order placing a ban on volunteers were taken The magistrate ignored the main complaint, obviously because it could not secure conviction, and made out a case with what was casually stated in the evidence, leaving unmistakably the impression that he was determined to punish rather than to judge whether the accused's case warranted a punishment

In the second trial, the main charge against Nehru was that he advised people to picket shops of certain persons who sold foreign cloth In the charge sheet the advice was characterised as a threat and hence criminal intimidation punishable under law In a long written statement, Nehru told the court that peaceful picketing was not, in his opinion, a crime. He added: 'Criminal intimidation involves a threat of injury to a person or his property, and injury denotes harm "illegally" caused.' Referring to this, the magistrate in his judgment observed: 'I am not prepared to agree with the contention that peaceful picketing is never an offence against the law. . . . Picketing is always on the verge of a breach of the law, even when it does not overstep the boundary In this case, there can be, in my opinion, no doubt that the accused has overstepped the boundary'

No prosecution witness, in fact no one who appeared in the trial, said that the 'boundary' was 'overstepped'; the prosecutor did not make any such allegation in his complaint either. Still the magistrate formed an opinion which would enable him to pass a sentence of imprisonment He argued that it was the sellers' legal right to sell any cloth, and whoever interfered with the enjoyment of that right caused injury to his trade and was to be punished Conversely, it was anyone's right to tender an advice, even by means of posting pickets, that a certain kind of article should not be purchased, if this was done peacefully, it did not constitute breach of the law. The magistrate ignored this

point, and queerly argued out his contention to prove criminal intimidation.

That peaceful picketing was not illegal, though not specifically provided for in law, was made clear by one of the terms of an agreement entered into between Gandhi and the Viceroy on March 5, 1931 : picketing against the consumption of non-Indian goods and intoxicants was to be allowed provided it was not coercive If picketing was unlawful, the Viceroy's undertaking given in the agreement could not make it lawful, and an amending law would have become necessary to give effect to the agreement Picketing, even if it was peaceful and not coercive, was bound to cause injury to the trade of the person against whom it was employed. To the magistrate this injury was enough to conclude that a charge of criminal intimidation had been established.

The third trial was held in a feudal court, and the chapter relating to it speaks for itself

A close examination of most trials of Congressmen would lead one to the conclusion that the decision to convict preceded the trial, and what remained was to find out a law or laws under which conviction could be justified. If it was justified, the contention that the decision was taken previously, loses force, and can be dismissed as unwarranted But the contention will remain, if it is true that the prosecution and the trying magistrate, when they failed to find an appropriate law against their victim, stretched, by perverse arguments, the meaning of some common, though inappropriate, sections of the Indian Penal Code or the Criminal Procedure Code, to create a show of justice. Their cavalier attitude towards the law was unwittingly encouraged by the Congress policy of not participating in the proceedings of the trials and not preferring appeals against the convictions.

Among the laws used and interpreted most mischievously and wrongly was section 124-A of the Indian Penal Code It was under this section that Nehru was convicted in his seventh trial, in the fifth trial also, it was 'breach' of this section that constituted one of the charges (For the provision of section 124-A

and its brief history, see Chapter V). 'Whoever . brings or attempts to bring into hatred or contempt . . the Government established by law in British India' was to be punished under this section It was held by the Bombay High Court in 1917 in a case against Tilak that to campaign for Home Rule, which inevitably meant displacement of British Rule, was neither sedition nor creation of disaffection or hatred or contempt against the Government.

British spokesmen had announced several times, on the authority of the British Parliament, that it was the 'declared policy' of His or Her Majesty's Government to help India realise self-government progressively 'Progressively' the Indian National Congress had been raising its political demand, and in 1929, the demand reached the cherished climax, namely, complete independence On January 26, 1930, the following resolution of the Congress Working Committee was read from thousands of platforms in India and re-echoed by the audiences: 'We believe that it is the inalienable right of the Indian people, as of any other people, to have freedom and to enjoy the fruits of their toil and have the necessities of life, so that they may have full opportunities of growth. We believe also that if any Government deprives a people of these rights and oppresses them, the people have a further right to alter it or to abolish it. The British Government in India has not only deprived the Indian people of their freedom but also based itself on the exploitation of the masses, and also ruined India economically, politically, culturally and spiritually We believe further that India must sever the British connection and attain Purna Swaraj or complete independence'

To say so was not illegal and did not amount to a breach of section 124-A It was one thing to create disaffection, hatred or contempt against Government, and quite another to say and preach that in India Indians themselves must rule and have complete independence The latter assertion had been made innumerable times by word of mouth and in the press. But whenever the British authorities in India felt that a certain political person was inconvenient to them or was likely to become

inconvenient, they decided to arrest and convict him, applying to him the provision of any law that appeared to them suitable. In the seventh trial of Nehru, the Chief Presidency Magistrate of Calcutta convicted him under section 124-A, arguing that the accused 'has himself admitted' that 'if by sedition is meant the desire to achieve the independence of India and to put an end to foreign domination,' he was certainly guilty He was prosecuted for three speeches he had delivered in Calcutta. In those speeches he had attacked imperialism, 'its vulgarity, its arrogance in humiliating the Indian people, its utter cruelty'. Section 124-A specifically mentioned 'the Government,' which is different from 'imperialism' or 'an imperialist power' which denotes a system Moreover, extracts from the speeches, as mentioned by the magistrate himself in his judgment, were in the nature of usual criticism of a 'system' and not of 'any individual or group of individuals' But the magistrate arbitrarily decided that sedition had been established and punished it with a term of two years

In the fifth trial also, exhortation to the people to work peacefully for freedom was held by the magistrate as an attempt to create disaffection Through the quotations from the speech, providing the basis for the prosecution, which the magistrate reproduced in his judgment, one goes in vain to find out which words, phrases or sentences were capable of being held as a breach of section 124-A (To question here the punishment under section 124-A does not mean to question punishment under other laws)

Even in the eighth trial, in which magisterial indulgence can be extenuated by the consideration of the extraordinary situation created by the war, the judgment provides proof of the magistrate's anxiety to interpret the speeches in his own arbitrary way with a view to passing an order of conviction

The Congress movements were directed against British rule in India, and as such, were bound to come into conflict with the law, and to result in the imprisonment of Congressmen. In the salt satyagraha, for example, Congressmen were called upon to

break the salt law, and accept the consequences The 'offensive' in such cases came from the Congress, in others it came from Government When an apprehension grew in the minds of the authorities that political unrest was mounting even in the absence of a movement, they decided to curb it by arresting the leading men Under the law, every arrested man, if he could not be condemned as a terrorist and detained without trial, had to be produced before a magistrate for trial The man had to be put in jail with a show of justice, and it was the task of the magistrate to furnish arguments in favour of the conviction There are numerous instances of political men and women being imprisoned even when there was no movement and they had no intention to court arrest In 1934, for example, Nehru had no intention to defy the law, but the Government considered his free movements inconvenient and decided to send him back to jail The Calcutta magistrate argued that Nehru had rendered himself liable to punishment and awarded a sentence of two years

This brief comment on the trials should not be considered as a post-mortem, it is in the nature of an evaluation of the administration of justice during political movements It is one thing to suspend a law in an emergency; it is quite another to put an unwarranted and mischievous interpretation on it

Before closing the Preface, I must thankfully acknowledge the help I have received from Mr M Chalapathi Rau, who, in spite of being extremely busy, found time to go through the typescript and made certain changes I am also grateful to Mr Suresh Chandra and Mr N D Agarwal for facilitating my access to the source material relating to some of the trials I am indebted to Dr Rafiq Zakaria for having spared his valuable time to grace this book with his highly appreciative and deeply informative foreword

'Shanti Sadan',
Motinagar,
Lucknow

RAM GOPAL

CONTENTS

" India will be free; of that there is no doubt; but if England seeks the friendship of a free India, she must repent and purge herself of her many sins, so that she may be worthy of a place in the coming order of things."

JAWAHARLAL NEHRU: Statement before the Court (Second Trial—May 1922).

1

"I do not recognise the British Government"

BACKGROUND

In 1919 began the era of mass movements under the leadership of Gandhi The ground had been prepared in the preceding years by Tilak's widespread campaigns, the Muslims' resentment against the British ever since Italy began the conquest of Tripoli in September 1911, and the terrorists' activities abroad to raise a rebellion in India with foreign arms Thousands of people had been arrested and clamped in jail without trial during the years of the Great War When the war drew to a close the Government of India rightly apprehended that, on its termination, a renewed demand for freedom coupled with the rising Muslim bitterness over the threatened dismemberment of the Turkish Empire would create a turbulent situation in India How to deal with the situation after the war was the problem

The Defence of India Act, which conferred on Government wide arbitrary powers, was to lapse after six months of the termination of the war A case was sought to be made out to justify the enactment of a new law, and with this end in view, Government appointed an inquiry committee, named the Rowlatt Committee after its chairman, a British judge. The Committee's recommendations, which were announced in January 1919, were interpreted by national leaders as the death-warrant of civil

liberties There was widespread indignation, and Gandhi became the focal point of the campaign against the recommendations

When the recommendations were embodied in a Bill, popularly known as the Rowlatt Bill, and there remained no doubt that it would soon become law, Gandhi resolved to organise a countrywide protest A day was appointed for general closing of shops, suspension of all business activity, fasting, prayers and public meetings throughout the country Both Hindus and Muslims responded to his call The forces, released by the protest day demonstrations, became uncontrollable, and the terrorstricken Government met them with firings, killing thousands of people Never before, since the Revolt of 1857, had Hindus and Muslims been joined together by such common ties as were displayed on the protest day and subsequently

This was the beginning of Gandhi's non-co-operation with the Government Then came the Khilafat issue, an offshoot of the defeat of Turkey in the war, which created an unprecedented awakening among the Muslims At this crucial stage, Gandhi urged the Hindus to make common cause with the Muslims There was tremendous response to his exhortation, and the country appeared prepared for another movement The Indian National Congress, which had by now passed under his leadership, met for a special session in September 1920, and adopted a resolution, which, after briefly describing the Khilafat injustice and the Rowlatt wrongs, said 'There can be no contentment in India without redress of the two afore-mentioned wrongs, and the only effectual means to vindicate honour and to prevent a repetition of similar wrongs in future is the establishment of Swarajya' The Congress decided 'to approve of and adopt the policy of progressive non-violent non-co-operation inaugurated by Mahatma Gandhi' and to continue it 'until Swarajya is established'

At the annual session (December 1920), the Congress went one step further and adopted for the country a programme of (*a*) surrender of titles and honorary offices and resignation from nominated seats in local bodies; (*b*) refusal to attend Govern-

ment levees, *durbars*, and other official and semi-official functions held by Government officials or in their honour, (*c*) gradual withdrawal of children from schools and colleges, owned, aided or controlled by Government, and in place of such schools and colleges, the establishment of national schools and colleges in various provinces, (*d*) gradual boycott of British courts by lawyers and litigants, and the establishment of private arbitration courts with their aid for settlement of private disputes, (*e*) refusal on the part of the military and clerical and labouring classes to offer themselves as recruits for service in Mesopotamia, (*f*) withdrawal by candidates of their candidatures for election to the Reformed Legislative Councils, and refusal on the part of voters to vote for any candidate who may, despite the Congress advice, offer himself for election, and (*g*) boycott of foreign goods

By October 1921, although the movement had not yet begun, Government took into custody most of the Khilafat and non-co-operation leaders The U P Provincial Congress Committee (55 members) was arrested *en bloc* On November 17, Bombay had a blood-bath The occasion was the arrival of the Prince of Wales, whose visit the Congress had decided to boycott. Thousands of excited people moved about in the streets, and for four days there were clashes, rioting and bloodshed in the city resulting in 53 dead and 400 injured The volunteer organizations, whose membership increased spectacularly, were declared illegal bodies, and several thousand young men were put in prison.

On November 22, 1921, the U P. Government issued the following notification :

> Whereas signs of lawlessness are reported from a number of districts in the United Provinces and whereas violence, picketing and criminal intimidation are employed by associations of persons known as "Volunteers" in support of hartals, boycott and unlawful objects, the following notifications are issued for the maintenance of law and order
>
> In exercise of the power conferred by sub section 2 of section 1 of the Indian Criminal Law Amendment Act, 1908, as amended by the Devolution Act, 1920, the Governor in Council is pleased to extend the provisions of Part II of the said Act to the whole of the United Provinces of Agra and Oudh

Whereas the Governor in Council is of opinion that the associations at present known by the name of the Khilafat Volunteers, Congress Volunteers, National Volunteers and other associations existing in the United Provinces of Agra and Oudh, and having similar objects, interfere with the administration of law and order, it is hereby declared by the Governor in Council under Section 16 of the Indian Criminal Law Amendment Act, 1908, as amended by the Devolution Act, 1920, that all the said associations are unlawful associations within the meaning of Part II of the said Indian Criminal Law Amendment Act

The Congress was already on the path of non-co-operation, and the natural reaction of these orders on the U P Congress Committee was to defy them The Committee, meeting on November 24 and 25, protested, by a resolution adopted unanimously, 'that the allegations made in the Government notification regarding the use of violence and criminal intimidation by the volunteers working for the Congress are utterly unfounded' The statement containing the committee's reaction said

The great hartal to protest against the visit to India of the Prince of Wales who landed in Bombay on November 17 which was peacefully observed on the 17th November all over the province without any violence was itself a sufficient refutation of Government allegations Indeed, it is not possible for this Council to imagine that any body of men could successfully intimidate a whole people and bring their work to a standstill The Council are of opinion that the volunteers who have offered themselves for the work of the Congress have acquitted themselves most creditably and it is largely because of their incessant efforts that a peaceful atmosphere has prevailed during these days of stress and trial

The object of Government in issuing the notifications was not a *bonafide* one of checking violence or intimidation, but of striking at the great Congress and Khilafat organisations, which were preparing the people along non-violent lines for the cherished goal of Swaraj The Provincial Committee recalled that submission to these orders meant the cessation of all national activity, and gave the only possible answer to the challenge thus thrown. No Government notifications, no threats or fear of punishment, would deter the Committee from carrying on its work despite all pains and penalties

The Committee solemnly decided to disobey the order contained in the notifications and appointed a Central Provincial Volunteer Board to organise Volunteer Corps in the province. It was further decided that every person enrolling himself as a volunteer should sign a pledge.

The pledge was:

> Having read and thoroughly understood the Government notifications Nos 2931 and 2932 dated November 22, 1921, and knowing full well the consequences of not obeying them, we, of our free will, offer ourselves as members of the Congress Provincial Volunteer Corps, and we hereby pledge ourselves civilly to disobev, without any objection, all such Government orders and laws as may be determined from time to time by the Provincial Congress Committee or by a committee appointed by it in this behalf And we further pledge ourselves to obey in utter disregard of the consequences all orders of the officers of the Volunteer Corps relating to such disobedience of Government orders
>
> So long as we remain in any volunteer organisation, we shall faithfully and diligently carry out all the instructions received from our superiors We shall observe the pledge of non-violence in word and deed and shall inculcate the spirit of non-violence amongst others We shall regard the pledge as binding upon us so long as the policy of non-violence is continued by the nation We shall run all risks attendant upon the performance of our policy
>
> We pledge ourselves that in case we are arrested or sentenced to imprisonment or some other proceedings are taken by Government against us, we shall not expect any monetary help for ourselves or for our relatives from the Congress or any other public fund

This statement was issued to the press in the first week of December, after the committee had again met (on the 3rd) and decided to ask every district Congress committee 'to constitute immediately a volunteer board'. The entire energy of the provincial Congress was now concentrated on the enrolment of volunteers, and among the many who signed the pledge were Jawaharlal Nehru and his father The prince's visit to the U P. was impending, and with the rising tempo of volunteer activity mass arrests began

Among those to be arrested first was Nehru At about 8 p m. on December 6, while he was 'sitting in the Congress office at Allahabad trying to clear up arrears of work', an excited clerk

told him 'that the police had come with a search warrant and were surrounding the office building' After the search had been carried out, Nehru was told that he was to be arrested The cause for action, so far as the police were concerned, arose at Lucknow, and he was taken there the same night, and produced before the city magistrate on December 15

TRIAL

The basis for prosecution was provided by police sub-inspector Hari Singh's report (dated December 4) to the Superintendent of Police, Lucknow, in which he said

'I beg to bring to your kind notice that Pandit Jawaharlal Nehru of Allahabad, Mr Khaliq-uz-zaman, Syed Mohammed Nawab, joint secretary of the Town Congress Committee Volunteer Corps, and Dr Shivaraj Narain of Wazirganj were distributing notices in Hindi and Urdu in a motor car throughout the city with red notices on all the four sides of the motor-car—"Observe Hartal on the 9th of December 1921" The first notice was an appeal to shop-keepers and *Ekka*, tonga and motor drivers by Pandit Motilal Nehru, to observe complete *hartal* without the fear of Government (as it cannot interfere with private matters) on the dates when H R H the Prince of Wales visits these places.

'The second notice in Hindi was "Mahatma Gandhi's Order that H R H the Prince of Wales is coming to India against our wishes He is coming to Lucknow in spite of our repeated protests Our duty is to observe complete *hartal* on the 9th of December 1921. None should take part in any procession" This notice had been published by Mr Mohanlal Saksena, secretary of the Congress Committee, Lucknow'*

When the proceedings in the court began, Hari Singh produced a copy of the *Independent* newspaper dated December 6, which published, he said, 'the details of a meeting held in Lucknow on December 3, and also of a meeting held at Allaha-

* Appendix "A".

bad on November 24 and 25 I saw Pandit Nehru, the accused, distributing notices with others near the Congress office in Golaganj on December 3, 1921'

A formal charge was now framed and read out to Nehru:

'I, Mohammed Shafi, city magistrate, Lucknow, hereby charge you, Pandit Jawaharlal Nehru, as follows.

'That you, between the 24th day of November 1921 and the 3rd of December 1921, at Lucknow, managed and assisted in the management of Khilafat and Congress Volunteers association which association has been notified in Government Order No. 2932 dated November 22, 1921 as an unlawful association, and thereby committed an offence punishable under section 17(2) of Act XIV of 1908 and within my cognizance.

'And I hereby direct that you be tried on the said charge'

Later it was discovered by the magistrate that section 17(2) was not applicable in the case, and he convicted Nehru under section 17(1) The provisions in the two clauses of section 17 were

> 17(1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both
>
> 17(2) Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may exceed to 3 years, or with fine or with both

Immediately after the charge had been read out began the examination of the accused:

Q 'Are you a member of the Central Volunteer Board, appointed on 24th or 25th of November 1921, to organise Volunteer Corps in the United Provinces?'

A 'I do not recognise the British Government in India, and I do not regard this as a court I regard these proceedings as farce or show This court carries out what has already been decided'

Q 'Did you attend a meeting of the Congress Committee on the 3rd of December, 1921, in Lucknow?'

A 'I do not wish to give a reply to this question, or to any question'

When the magistrate asked the accused to elucidate what he meant by his answer to the first question, he said he had decided not to answer any question

JUDGMENT

Nehru's refusal to participate brought the trial to an end within minutes And two days later, on December 17, the judgment was announced ·

'Pandit Jawaharlal Nehru of Allahabad was originally charged under section 17(2) of Act XIV of 1908 The case for the prosecution is that there was a meeting held in Allahabad on the 24th or 25th of November 1921, the proceedings of which were published in the *Independent* of December 6, 1921, in which meeting the accused signed a pledge becoming a member of the Provincial Congress Volunteers in spite of the fact that under Notification No 2932 dated November 22, 1921 the Congress Volunteers had been declared by the Government of the United Provinces an illegal association under the Criminal Law Amendment Act Later on a similar meeting was held in Lucknow on December 3, 1921 in which the accused was present and where the pledge was repeated In the course of the same day, Pandit Jawaharlal Nehru accompanied by others distributed leaflets in Lucknow asking people to observe *hartal* and to boycott the visit of the Prince of Wales on December 9, 1921.

'The accused does not plead and the only statement he makes is that he does not recognise the Government of India and the court, and regards his trial as a farce

'The evidence that has been adduced consists of a statement by sub-inspector Hari Singh who deposes that he saw the accused with others distributing notices for *hartal* and boycott of the Prince's visit There is no evidence to show what part he played in the Lucknow meeting, and as regards his pledge in Allahabad, it is an offence triable there The charge under section 17(1) is proved by the accused distributing handbills in Lucknow in company with volunteers and thus assisting in the operations of the Volunteers which body he knew to be an unlawful association under the Indian Criminal Law Amendment Act.

'I convict Pandit Jawaharlal Nehru under section 17(1) of the Criminal Law Amendment Act, and sentence him to six months' simple imprisonment and a fine of Rs. 100, in default to simple imprisonment for one month'

2

"Guilty of Criminal Intimidation and Extortion"

BACKGROUND

ON March 3, 1922, Nehru was released prematurely, after he had been 87 days in jail He was informed that some revising authority had come to the conclusion that he was wrongly sentenced and was to be discharged The Non-co-operation and Civil Resistance Movement had been suspended by Gandhi, and when Nehru returned to Allahabad from the Lucknow jail, he 'found that the Congress organisation was not functioning well' and he 'tried to put it straight' In particular, he interested himself in the boycott of foreign cloth 'This item of our programme', he says in his *Autobiography*, 'still continued in spite of the withdrawal of civil resistance'

It was this activity which became the cause of his arrest for the second time On May 11, he had gone to visit his father in the Lucknow jail, and while there, he was asked by the superintendent to come out with him And at the jail gate he was put under arrest and taken to Allahabad where, on May 13, he was produced before the district magistrate, and charged under sections 506, 385, 117 and 116 of the Indian Penal Code These sections provided

116 Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such

abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth of the longest term provided for that offence, or with such fine as is provided for that offence, or with both

117 Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

385 Whoever, in order to commit extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

506 Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

TRIAL

On the first day of the hearing, the proceedings commenced with the examination of the prosecution witnesses The first to be examined was the city *kotwal*, who deposed: 'I got an order from the district magistrate on the 2nd of May to make inquiries about a Hindi leaflet entitled *Ap Kidher Hain?* It was signed by Jawaharlal Nehru, Bishambhar Nath Bajpai and Raghunath Prasad Kapoor, and was printed in the Kanti Press I searched the said press and seized the original of the pamphlet It is written in Jawaharlal Nehru's hand, and the three signatures also are in the same hand I have seen Jawaharlal Nehru's writing many times and can recognise his handwriting I searched the Town Congress Committee office in this connection on the 5th of May and seized a number of papers that were produced before the Court.'

Lakhte Husain, an inspector of the Criminal Investigation Department, was the next witness examined He said he reported the proceedings of a meeting held in the Swaraj Sabha grounds on April 25, and addressed, among others, by Nehru Producing his original shorthand notes, Husain said that the speech contained an announcement by Nehru that picketing of foreign cloth shops was to be resumed from April 26

The prosecution then produced a number of cloth merchants who deposed that (1) their shops had been picketed for several days, causing them pecuniary loss, (2) collections had been made from them as fine by enforcement of the condition of a pledge they had taken at the instance of the Town Congress Committee to the effect that if they went back upon their promise not to sell foreign cloth until the end of 1922, they would pay a penalty as assessed by the Vyapar Mandal, an association which they had formed, (3) they received letters from the secretary of the Town Congress Committee, threatening that the penalty clause of the pledge would have to be enforced The allegation that the shops had been picketed was corroborated by several police constables who appeared as prosecution witnesses

Before the court rose for the day, Nehru inquired as to what procedure the magistrate proposed to follow in the case, and said that he intended to make a comprehensive statement at the proper stage of the proceedings The magistrate replied that he could not yet say what procedure he would follow as the evidence had not been concluded He was proceeding on the police report, and as far as he could judge all the persons produced before him had been charged with the same offences, and therefore he proposed to take them in a batch * He added 'You threatened to picket certain shops because the shopkeepers did not do as you wished, putting them in fear of injury and extortion, and as far as I can gather the charge that the police is trying to prove against you is that of intimidation'

On May 15, the hearing was resumed with further examination of the prosecution witnesses, and after it was over, the magistrate framed the following charges and read them over to Nehru:

'I, K. N Knox, district magistrate of Allahabad, hereby charge you, Jawaharlal Nehru, as follows

'(1) That you, on or about the 25th April 1922, in a public speech threatened the dealers in foreign cloth in Allahabad to injure their trade by picketing their shops unless they agreed

* Eight others were charged with similar offences, and the magistrate made it a joint trial of all the nine accused

to omit to do what they are lawfully entitled to do, namely, to import foreign cloth, and thereby committed the offence of criminal intimidation under section 506 of the Indian Penal Code, and within my cognizance

'(2) That in the same speech addressed to a meeting of about 3,000 persons, you invited the public to assist in the picketing and to make the above criminal intimidation effective, and thereby committed the offence of abetting the commission of an offence by the public under section 117 IPC, read with section 506 IPC

'(3) That you being a member of the body styling itself the Town Congress Committee and having presided at its recent meeting assisted to organise the picketing of the shops of certain cloth dealers between the 26th of April and the 3rd of May 1922, and thereby intentionally assisted the secretary of the said Town Congress Committee, namely, Keshav Dev Malaviya, to place those cloth dealers in fear of injury in order to extort money from them, and thereby committed an offence under section 116 of the Indian Penal Code read with section 385 of the Indian Penal Code, and within my cognizance.'

Soon after the reading of the charge-sheet was over, Nehru was asked by the magistrate.

Q 'Do you plead guilty?'

A 'I refuse to plead'

Q 'Do you wish to cross-examine the prosecution witnesses?'

A 'I do not wish to cross-examine the witnesses.'

Q 'Do you wish to produce any defence?'

A 'No I do not wish to produce any defence'

Q 'Do you wish to make any statement?'

A 'As I said yesterday, I wish to make a comprehensive statement, and that is the only part that I propose to take in the

proceedings I will require some time to prepare my statement, and it would be convenient to me if the next hearing is postponed till Wednesday'

The request was acceded to and the court adjourned till that day, May 17, when Nehru made the following statement

'I am making this statement not in order to defend myself against the various charges brought against me but to define my position and to state the motives which have induced me to act in the manner I have done I have refused to plead guilty or not guilty, and I have declined to participate in the trial by cross-examination of witnesses or otherwise. I have done so because I do not recognise this court as a court where justice is administered I mean no disrespect to the presiding officer when I say that so far as political offences are concerned the courts in India merely register the decrees of the executive They are being used today more than ever before to prop up the fabric of a Government which has misgoverned India long enough and of which the prestige is gone for ever.

'I stand here charged with criminal intimidation and abetment of an attempt to extort The warrant of my arrest bears also the familiar section 124A, although I am not being tried for it today I propose however to make a comprehensive statement I cannot divide myself up into various compartments, one for picketing, another for sedition and yet another perhaps for volunteering All my activities have but one end in view, and that end I have striven to attain with all the strength and energy that is in me. Less than ten years ago I returned from England and after a lengthy stay there, I had passed through the usual course of public school and university I had imbibed most of the prejudices of Harrow and Cambridge, and in my likes and dislikes I was perhaps more an Englishman than an Indian I looked upon the world almost from an Englishman's standpoint And so I returned to India as much prejudiced in favour of England and the English as it was possible for an Indian to be.

‘Today, ten years later, I stand here in the dock charged with two offences and with a third hovering in the background—an ex-convict who has been to jail once already for a political offence, and rebel against the present system of Government in India That is the change which the years have brought in me It is not necessary for me to recite the reasons for this change Every Indian knows them; every Indian has felt them and has hung his head in shame for them And if he has retained a spark of the old fire in him, he has taken a solemn pledge to strive unceasingly for India’s freedom, so that his countrymen may never again be subjected to the miseries and humiliations that are the lot of a subject race Today, sedition against the present Government in India has become the creed of the Indian people, to preach and practise disaffection against the evil which it represents has become their chief occupation

‘I am charged with criminal intimidation, and attempted extortion I have wondered if these charges were seriously meant The sections of the Code which have been applied bear no relation to the facts even as disclosed by the prosecution evidence I presume that the signal success that has attended our efforts in Allahabad has induced the authorities to take some action against the picketers. If peaceful picketing for a lawful object is a crime then indeed I am guilty of having advised it and helped in it But I have yet to learn that peaceful picketing has become an offence even under the laws of British India Our object in picketing was to make the cloth dealers adhere to the pledges they had jointly taken Does anyone believe that we could achieve success in this by criminal intimidation and extortion? All the world knows that our strength lies in the support of our people and the good-will of our countrymen Our weapons are not the old time ones of force and coercion The weapons which our great leader has put in our hands are those of love and self-sacrifice We suffer ourselves and by our suffering seek to convert our adversary

‘Criminal intimidation involves a threat of injury to a person or his property, and injury denotes harm “illegally” caused So also extortion must include the putting of any person in fear

of "injury" and thereby "dishonestly" inducing him to part with property I have listened to the prosecution evidence with interest in order to find out on what ground these novel charges are based What was the injury to any person or property that was threatened? What was the harm "illegally" caused? Wherein lay the dishonesty of any of us? I have not heard a single allegation yet made, much less proved, which suggests that we have caused injury to any person or property, caused any harm illegally or acted dishonestly Not a single prosecution witness including the police and the C I D has made such an allegation In the whole of Allahabad there was found no person of the thousands who must have witnessed the picketing, who could bring the charge of any intimidation against us, or even a harsh word uttered by one of our picketers No greater proof of our triumph can be given than this unsought testimony of the police and the C I D Our picketing has been, I make bold to say, a model of its kind, perfectly peaceful, perfectly courteous, relying on entreaties and exhortations, and not even hinting at force or intimidation The cloth dealers, who are alleged to have been intimidated by us, are presumably the aggrieved party But not one of them has complained

'Ten months ago, the cloth dealers of Allahabad took a solemn pledge to refrain from purchasing foreign cloth till the end of 1922 All the signatories to the pledge, and they included almost every cloth-merchant in the city, constituted themselves into an association styled the Vyapar Mandal and elected office-bearers and a committee The first business of the Mandal was to lay down that every member who broke his pledge and purchased foreign cloth would have to pay a certain penalty and in case he refused to do this, picketing would be resorted to The Committee of the Mandal was to determine in each individual case how much foreign cloth had been bought and what the penalty was to be On several occasions during the past year the Mandal committee considered such breaches of the pledge and imposed and recovered fines in accordance with their rules Occasionally, at their request, picketing was also resorted to Two months ago a large quantity of foreign cloth

was purchased by some of the cloth-dealers in Allahabad This was in contravention of the pledge, and the shops of some of these cloth-dealers were picketed Later, a committee of the Vyapar Mandal, newly reconstituted, assessed the fines on the merchants who had broken their pledges, and themselves collected this money, which lies at the disposal of the Mandal To the best of my knowledge two of the gentlemen, who have given evidence for the prosecution in this case, are members of the committee of the Mandal, and as such they must have themselves helped in the assessment and collection of the fines

'These are the facts relating to picketing in Allahabad. It is clear beyond doubt that there was neither intimidation nor any attempt at exhortation The present prosecution is really an attempt to suppress lawful and peaceful picketing under cover of charges of intimidation and extortion Picketing has been going on all over India for many months It has taken place in many cities and bazars in the province Here in this very city of Allahabad we have repeatedly resorted to it And yet Government took no action against it as such They knew well that in India, as in England, peaceful picketing is no crime Of course, it is open to them by a stroke of the pen to make even peaceful picketing illegal But whether they do so or not we shall not give it up To entreat and exhort and advise others to follow a certain line of action or to abstain from doing something is a right which we will not abandon, whatever the Government may do We have few rights and privileges left in this country and even these are sought to be taken away. We have shown to the world how we value the right of free association, and we have continued our efforts in spite of thousands of arrests and all Government notifications to the contrary We will not and we cannot submit to any restriction of our right of free speech

'A quarter of a century ago, a great British judge stated in the House of Lords with reference to this right of free speech: "A man has a right to say what he pleases to induce, to exhort, to command, provided he does not slander or deceive or commit any other of the wrongs known to the law of which speech may

be the medium Unless he is thus shown to have abused his right, why is he to be called upon to excuse or justify himself because his words may interfere with some one else and his calling? " This right of free speech we shall cling to, whatever the cost

'I am glad for many reasons that I am being tried for picketing My trial will bring the question of the boycott of foreign cloth even more to the fore, and the people of Allahabad and of the province will realise the full significance of it They will discard all foreign cloth as unholy and treat the touch of it almost as a pollution If they pondered over the evils and the misery and the poverty that foreign cloth has brought to this long suffering country, perhaps they would feel some of the horror I feel at the thought of wearing it They will not bring forth arguments that old clothes have to be worn out or that festivities require fine clothing They would know that the salvation of India and of her hungry millions demand the use of the *charkha* and the wearing of *khaddar* and they would cast out all foreign clothes and consign them to the flames or to the dustbin I pray that the cloth merchants of Allahabad will adhere to their sacred pledge twice taken, and do their utmost to bring about a complete boycott of foreign cloth in this ancient and holy city Some of these cloth-dealers have given evidence for the prosecution in this case I have no grievance against them I shall suffer most gladly any imprisonment that may be awarded me if I know that thereby I have touched their hearts and won them over to the great cause And I would appeal to the public of this city and province and earnestly request them to do this much for their country—wear *khaddar* and ply the *charkha*

'My co-accused and I are charged with intimidation and extortion I should like the police and Government officials to examine their own conscience, to go deep down into their hearts and say what many of them have done during the past year and a half Intimidation and terrorism, bribery and extortion have been going on over the length and breadth of the province. And the persons guilty of them have not been Congressmen or

our volunteers, but the underlings of Government who have indulged in them frequently with the knowledge and approval of their superiors Yet they are not tried or punished They are patted on the back and praised and promoted.

'My colleagues and I have seen and personally investigated acts of terrorism and inhumanity We have seen how men and women have been subjected to uttermost humiliation We have seen how terror reigns in Sitapur We have investigated the brutalities of Shohratganj, and we know how hundreds of Ballia's gallant workers have been sent to jail for the sole offence of being Congress office-bearers or other principal workers of the Congress And the poor down-trodden kisans with the haunted hopeless look in their eyes, working away like beasts of the field from morning to night-fall, so that others may enjoy the fruits of their labour—we have seen them harrassed and made utterly miserable till life became a burden almost too heavy to be borne I need not refer to individual districts. Almost every one of them has the same sad and splendid tale to tell

'Intimidation and terrorism have become the chief instruments of Government By these methods they seek to keep down a people and to suppress their disaffection Do they imagine that they will thus instil affection for themselves in the people or make them loyal instruments of their Imperialism? Affection and loyalty are of the heart They cannot be purchased in the market place, much less can they be extorted at the point of the bayonet Loyalty is a fine thing But in India some words have lost their meaning and loyalty has come to be almost a synonym for treason to the Motherland, and a loyalist is he who is not loyal to his God or his country but merely hangs on to the coat-tails of his alien master Today, however, we have rescued the word from the depths, and in almost every jail in India will be found true loyalists who have put their cause and their faith and their country above everything else and have been true to them despite all consequences To them has come the great call, they have seen the vision of freedom and they will not rest or turn away till they have achieved

their heart's desire England is a mighty country with her armies and her navy, but today she is confronted with something that is mightier Her armies and her navy have to face the suffering and the self-sacrifice of a nation determined to be free, and no man can doubt what the issue of such a struggle must be. We are fighting for our freedom, for the freedom of our country and faith We desire to injure no nation or people We wish to have no dominion over others But we must be perfectly free in our own country England has cruelly wronged us during the past 150 years or more And even yet she has not repented and mended her ways India gave her a chance a year and a half ago, but in the pride and arrogance of her physical might she has not taken it The people of India have tried her and they have passed judgment and from that decree there is no turning back India will be free, of that there is no doubt, but if England seeks the friendship of a free India she must repent and purge herself of her many sins, so that she may be worthy of a place in the coming order of things

'I shall go to jail again most willingly and joyfully Jail has indeed become a heaven for us, a holy place of pilgrimage since our saintly and beloved leader was sentenced Big-bodies, great-hearted Shaukat Ali, bravest of the brave, and his gallant brother are there, and so are thousands of our co-workers One feels almost lonely outside the jail, and selfishness prompts a quick return Perhaps I shall be awarded a long term of imprisonment this time Whether this is so or not, I shall go with the conviction that I shall come out to greet Swaraj in India

I have said many hard things about the British Government For one thing however I must offer it my grateful thanks It has given us a chance of fighting in this most glorious of struggles Surely few people have had such an opportunity given them And the greater our suffering, the more difficult the test we have to pass, the more splendid will be the future of India India has not sent the noblest and best twenty-five thousand of her sons to the jails to give up the struggle India's future is assured Some of us, men and women of little faith, doubt and

hesitate occasionally But those who have vision can almost see the glory that is to be India

'I marvel at my good fortune To serve India in the battle of freedom is honour enough To serve her under a leader like Mahatma Gandhi is doubly fortunate But to suffer for the dear country . what greater good fortune could befall an Indian unless it be death for the cause or the full realisation of our glorious dream '

JUDGMENT

At 9-30 a m on May 19, the district magistrate delivered his judgment

'Jawaharlal Nehru has been charged on three counts under section 506 and section 117 read with section 506, and section 116 read with section 385 of the Indian Penal Code, Keshhav Dev Malaviya has been charged on two counts under sections 506 and 385 of the Indian Penal Code, Khudayar Khan, Bhairon Prasad, Munni Lal, Anandi Prasad, Chhote Lal, Amar Nath, and V S. Venkat Rama Iyer have been charged under sections 506 and 385 of the Indian Penal Code

'The incidents, which form the subject of this prosecution, commence with resolution No 5 passed at the meeting of the body styling itself the Town Congress Committee of Allahabad, on the 19th April 1922 The record of this meeting is contained in the minute book which was seized by the city *kotwal* when he searched the Town Congress Committee office on the 15th of May 1922 Though this record is not signed, it has been proved by the evidence of the city *kotwal* and of prosecution witness No 7 that it is in the hand-writing of accused No 2 Keshav Dev Malaviya, the secretary of the Town Congress Committee The same record shows that accused No 1, Jawaharlal Nehru, presided at that meeting The purport of resolution No 5 is that it has been brought to the notice of the committee that the cloth merchants of Allahabad have imported foreign cloth from foreign countries against their pledges, that the committee has decided upon the picketing of the shops of these merchants, it

has been left to the discretion of the picketing committee as to when and where the picketing should be done

'Prosecution witness No 2 inspector Lakhte Husain of the Criminal Investigation Department, has deposed on oath that on the 20th April 1922, he attended a meeting at the Swaraj Sabha grounds About 3,000 persons were present Jawaharlal Nehru, the accused No 1, spoke in Urdu, and the witness took down his speech in full in shorthand During the course of this speech, he announced that the cloth dealers of Allahabad had been given every opportunity of ceasing to import foreign cloth and that now they should be made to do so by picketing A translation of the relevant portion of his speech runs as follows

'" People come to me these days, cloth merchants of your city come and take out their scales and say that this is profitable to us and this is unprofitable to us, and that if they do not sell foreign cloth they will sustain a great loss What should I say to you and them? I have said much to these sellers of foreign cloth I have seen them many a time During the last month, i e ever since my release, I have visited them nearly every week I have told them that they would agree to what I have said when I would picket their shops But I do not want to exert pressure upon them I wanted that they should of their own accord agree to it My brother citizens very much wanted that there should be picketing To them I replied, ' even though a small quantity of foreign goods may be imported, still there should be no picketing ' It resulted in some persons breaking their pledges which they had signed before God saying that they would not import foreign cloth before the end of 1922 They imported foreign cloth, and if you go to the bazar you will see how they are importing foreign cloth For the last one and a half months I bore this What I had to say I have said Now I tell you and any one of them who may be present here, that there will be picketing from tomorrow (Cheers, Mahatma Gandhi ki jai, hear hear) Why are you clapping? I have told you this simply because you know that picketing is a thing which is impossible as long as you or the shop-keepers do not sympathise with us It is not possible that two or three men should picket

shops so long as the public is not with them. Therefore, I have perfect faith in our success, because as your clapping indicates, I find that you sympathise with us But you should not sympathise with us only to the extent of saying 'hear-hear' Rather you should in sympathising with us leave us behind, become volunteers, enlist others as volunteers and make this picketing successful I have pondered over it before starting it "

'The following day accused No 2, Keshav Dev Malaviya, addressed a letter to the firm of Mahabir Prasad Chhedi Lal, who states on oath that he received it with the peon-book of the Town Congress Committee and signed for it in that book The city *kotwal* and prosecution witness No 7 have proved that this letter is signed by Keshav Dev Malaviya, and the letter shows that he signed in his capacity as secretary of the Town Congress Committee It informs Chhedi Lal that the District Congress Committee has received information that he has violated his pledge and has ordered foreign cloth, the committee has decided to start picketing the shops of such cloth merchants, and therefore, they are compelled to start picketing from 5 p m. that day; that they will only remove picketing when he pays the penalty at 10%, and again takes a vow with a true heart for the future Chhedi Lal states on oath that he sent a reply asking for 8 days' notice, when the cloth merchants might gather and consider the matter The grace was not granted, and they started picketing his shop The picketing lasted 9 days at his shop. The picketing stopped, when the other cloth dealers signed a paper, and when he, the witness, signed too.

'Prosecution witness No 4 is a cloth merchant on a large scale, and states on oath that he used to get about Rs 4 lakhs value of of cloth every year of which the major portion was foreign cloth For a time there was no sale, and he ceased to import foreign cloth With the marriage season, there was again a demand for it He then sent for about a lakh yards of foreign cloth and half a lakh yards of *desi* cloth He got a letter to say that his shop would be picketed if he did not stop getting foreign cloth His shop was picketed for three days about the end of last month. He told Sanwal Das that the picketing was injuring his busi-

ness, he was told to pay Rs 1,000 to Sanwal Das He paid it, but professes not to know what it was for Prosecution witness No 5, Ajodhia Prasad, states that he is a cloth dealer in the chowk, and that about eight months ago he had promised to send for no foreign cloth up till December 1922, and to pay a penalty if he did For some time there was no demand, but more recently he got in about Rs 10,000 worth of foreign cloth When it was proposed to picket his shop from the 26th of April, he along with Chhedi Lal signed a letter, asking for 8 days' grace His shop was picketed for an evening and for two days. The picketing stopped when an agreement paper came and he signed it

'The three cloth merchants though they swear to the picketing and relate at least some of the circumstances in which it took place, profess to be unable to identify the picketers However, the picketing was watched closely by the prosecution witness No 8, Babu Ram, an inspector in the secret police, and some of his constables Babu Ram states that on the 20th of April he saw the shops of Brij Mohan Das, Chhedi Lal and Jit Mal picketed, and that the picketing went on until the 3rd of May. In all he saw 10 or 11 foreign cloth shops picketed He identified accused No 2 to 8 (except No 9, Anandi Prasad) as having been among those who picketed the shops He noticed Keshav Dev Malaviya, accused No 2, posting picketers at the shop of Chhedi Lal and again at the shop of Makhan Lal He noticed Khudayar Khan, accused No 3, posting picketers at the shop of Jit Mal In answer to the question which I put to him, he stated that he was present when the picketers left the shop of Chhedi Lal on the 2nd or the 3rd day of May There was a talk at the shop-door of the reason why the picketing had been stopped, and one of the volunteers told him that Chhedi Lal had agreed to pay a penalty of Rs 1,080 and not to send for more foreign cloth, and had signed a paper The prosecution witness No 9 Daya Shanker, head constable, confirms the above account His evidence was specially clear, and there can be no doubt that he had watched the picketing closely and was familiar with the picketers They paraded with Swaraj flag and Swaraj badges He

identified accused No 2 to 9 as among those who picketed the shops, and he stated that Keshav Dev Malaviya and Khudayar Khan and some others, whom he did not know, posted the picketers He also states that when the picketers were removed from the shop of Brij Mohan Das on the 29th of April, the by-standers were saying that he had promised to pay 10 per cent on the foreign cloth that he had sent for, and not to send for foreign cloth in future; and that the picketers themselves were saying that he has signed and now the picketing was removed Similar discussion occurred in his presence when the picketers were removed the shop of Dwarka Prasad on the 2nd or 3rd of May Prosecution witness No 10, Nasir Ahmed, constable, also identified accused No 2 to 9 as having been among those who picketed the shops

'The accused have declined to plead, to cross-examine or to produce defence Their plea has been taken as a plea of not guilty Jawaharlal Nehru, Keshav Dev Malaviya, Amar Nath and Venkat Rama Iyer have filed written statements to which I will refer in due course The others have filed no statements, but except in the case of Munni Lal and Amar Nath have identified themselves with the statement of Jawaharlal Nehru.

'In accordance with the provisions of section 239 of the Criminal Procedure Code, I have tried the accused jointly The evidence which has been produced makes it clear that all the incidents, which form the subject of charges are part and parcel of one transaction First came the resolution in the minute book of the Town Congress Committee passed at a meeting at which Jawaharlal Nehru was presiding Then came the speech of Jawaharlal Nehru in which he announced that he had tried persuasion until he was tired of it and would now compel the cloth dealers to carry out their so-called pledges Then came the letter from the secretary of the Town Congress Committee, informing certain cloth merchants that their shops will be picketed at once, until they agreed to pay a fine and to promise not to import foreign cloth This was immediately followed by the actual picketing It is a matter of common knowledge that the shop-keepers had been threatened with picketing, until they

agreed to the two demands made by the secretary of the Town Congress Committee, and there is evidence that this was actually discussed when the picketing was removed from one shop and taken to another Consequently, there is a strong presumption that the picketers were aware of this threat when they went out to picket It is true that in his speech of the 25th April, Jawaharlal Nehru does not explicitly threaten extortion, but it is extremely improbable that he was ignorant of the threat made by the secretary of the Town Congress Committee in his letter of the 26th April and in his subsequent letters, nor did he make any attempt to repudiate the demand that a fine should be paid, and as I have said above, it was a matter of common knowledge during the course of picketing that the fine had been demanded In any case, in the circumstances it was clearly a probable consequence of this instigation, for he himself writes that about 10 months ago an association, styled the Vyapar Mandal, was formed, and that the first business of the Mandal was to lay down that every member who broke his pledge and purchased foreign cloth would have to pay a certain penalty

'I now pass on to the legal point raised by accused No 1 in his written statement He argues that both criminal intimidation and extortion involve a threat of injury, and that injury denotes harm illegally caused. He says that he advised and assisted in peaceful picketing and that peaceful picketing is never an offence against the law. I am not prepared to agree with the contention that peaceful picketing is never an offence against the law Nor am I called upon to decide that point Picketing is always on the verge of a breach of the law, even when it does not overstep the boundary In this case, there can be, in my opinion, no doubt that the accused have overstepped the boundary It would be no offence for any of them, whether individually or jointly, to request the cloth merchants of Allahabad to cease from importing foreign cloth, it would be no offence for any of them to appeal to the citizens of Allahabad and to request them not to purchase foreign cloth But in his speech of the 25th of April, Jawaharlal Nehru has confessed that these methods of peaceful persuasion have failed and that now

he will make the cloth merchants bend to his will by picketing their shops Now there can be no doubt that in common parlance he was trying to make the merchants do as he wished by a threat of injury to their trade, and that when to this was added a demand to pay a fine, he and his assistants were levying blackmail on them It remains to consider whether this injury to their trade was an injury within the meaning of the Penal Code The accused is quite accurate when he says that the definition of injury involves harm illegally caused. The definition of illegal is contained in section 43 of the Penal Code It runs "the word illegal is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for civil action" In my opinion there can be no doubt that the shop-keepers whose shops were picketed, have a right of action for damages against all those concerned I have shown above that it was not a case in which the picketers merely tried to persuade the shopkeepers not to import foreign cloth, or the citizens of Allahabad not to buy it The picketing was carried out under an explicit threat that their trade would be held up as far as possible until they agreed to surrender their legal right and also to enforce the payment of a fine On either count the shop-keepers have ground of action for damages I hold, therefore, that Jawaharlal Nehru is guilty of criminal intimidation under section 506 of the Indian Penal Code, that he is also guilty on inciting the public to commit criminal intimidation under section 117 read with 506 of the Penal Code, and that he is further guilty of abetting the offence of placing certain cloth merchants in fear of injury to extort money from them under section 116 read with 385 of the Penal Code

'I have given careful consideration to the question of sentence I recognise that the accused did not intimidate their victims out of private malice or attempt to extort money from them for their private gain Apparently they were also under the impression that they were acting within the law, or at least that they were not offending against the Penal Code If their judgments were not distorted by impracticable visions, some of them at least would have been found to recoil from bullying and levying

blackmail upon innocent traders who are as patriotic as themselves and ready to make sacrifices in the interest of their country, but possess too practical a knowledge of business to be led away by the idea that if a few merchants abstain from importing foreign cloth, the demand for it will cease and the trade itself will disappear The acts of criminal intimidation and attempted extortion were deliberate and sustained Too lenient a punishment will defeat its own end and will encourage rather than discourage breach of the law I sentence Jawaharlal Nehru to 18 months' rigorous imprisonment under section 506 of the Indian Penal Code, and to 18 months' rigorous imprisonment under section 117/506 of the Indian Penal Code, and to six months' rigorous imprisonment under section 116/385 I P C The sentences will run concurrently In addition, I sentence him to a fine of Rs 100 under section 117 I P C, and in default to three months' further rigorous imprisonment'

(Of the other accused, Keshav Dev Malaviya was sentenced to 18 months' rigorous imprisonment and a fine of Rs 100 or in default to three months' additional rigorous imprisonment. Khudayar Khan was sentenced to one year's rigorous imprisonment, and a fine of Rs 100 or in default to three months' additional rigorous imprisonment, and the other six to six months each and a fine of Rs 50 or in default to two months' further rigorous imprisonment)

3

The Feudal Court of an Uneducated Magistrate

BACKGROUND

IN September 1923, the Congress met for a special session at Delhi There, Nehru received an invitation from the Sikhs of Nabha, an Indian ruler's state, to see for himself the struggle in which they were then engaged against the Government. Nehru accepted the invitation, and proceeded to Jaito, the centre of the Sikh agitation, immediately after the Congress He was arrested and put up for trial. The records of this trial are nowhere available, but fortunately, Nehru covers it rather elaborately in his autobiography The background to the Sikh agitation, as briefly stated by him, was.

'The Sikhs, and especially the Akalis among them, had been coming into repeated conflict with the Government in the Punjab A revivalist movement among them had taken it upon itself to purge their Gurdwaras by driving out corrupt Mahants and taking possession of the places of worship and the property belonging to them The Government intervened and there was conflict The Gurdwara movement was partly due to the general awakening caused by non-co-operation, and the methods of the Akalis were modelled on non-violent Satyagraha. Many incidents took place, but chief among them was the famous Guru-ka-Bagh struggle, where scores of Sikhs, many of them ex-soldiers,

allowed themselves to be brutally beaten by the police without raising their hands or turning back from their mission India was startled by this amazing display of tenacity and courage. The Gurdwara Committee was declared illegal by the Government, and the struggle continued for some years and ended in the victory of the Sikhs The Congress was naturally sympathetic, and for some time it had a special liaison officer in Amritsar to keep in close touch with the Akali movement

'The incident to which I am going to refer had little to do with this general Sikh movement, but there is no doubt that it occurred because of this Sikh upheaval The rulers of two Sikh States in the Punjab, Patiala and Nabha, had a bitter, personal quarrel which resulted in the deposition of the Maharaja of Nabha by the Government of India A British Administrator was appointed to rule the Nabha State This deposition was resented by the Sikhs, and they agitated against it both in Nabha and outside In the course of this agitation, a religious ceremony, at a place called Jaito in Nabha State, was stopped by the new Administrator To protest against this, and with the declared object of continuing the interrupted ceremony, the Sikhs began sending *jathas* (batches of men) to Jaito These *jathas* were stopped, beaten by the police, arrested, and usually carried to an out-of-the-way place in the jungle and left there I had been reading accounts of these beatings from time to time, and when I learnt at Delhi, immediately after the Special Congress, that another *jatha* was going and I was invited to come and see what happened, I gladly accepted the invitation It meant the loss of only a day to me, as Jaito was near Delhi Two of my Congress colleagues—A T. Gidwani and K Santanam of Madras —accompanied me The *jatha* marched most of the way It was arranged that we should go to the nearest railway station and then try to reach by road the Nabha boundary near Jaito just when the *jatha* was due to arrive there We arrived in time, having come in country cart, and followed the *jatha*, keeping apart from it On arrival at Jaito the *jatha* was stopped by the police, and immediately an order was served on me, signed by the English Administrator, calling upon me not to

enter Nabha territory, and if I had entered it, to leave it immediately A similar order was served on Gidwani and Santanam, but without their names being mentioned, as the Nabha authorities did not know them. My colleagues and I told the police officer that we were there not as part of the *jatha* but as spectators, and it was not our intention to break any of the Nabha laws Besides, when we were already in the Nabha territories there could be no question of our not entering them, and obviously we could not vanish suddenly into thin air. Probably the next train from Jaito went many hours later. So for the present, we told him, we proposed to remain there We were immediately arrested and taken to the lock-up. After our removal the *jatha* was dealt with in the usual manner.

'We were kept the whole day in the lock-up and in the evening we were marched to the station Santanam and I were handcuffed together, his left wrist to my right one, and a chain attached to the handcuff was held by the policeman leading us Gidwani, also handcuffed and chained, brought up the rear. This march of ours down the streets of Jaito town reminded me forcibly of a dog being led on by a chain We felt somewhat irritated to begin with, but the humour of the situation dawned upon us, and on the whole we enjoyed the experience We did not enjoy the night that followed This was partly spent in crowded third-class compartments in slow-moving trains, with, I think, a change at midnight, and partly in a lock-up at Nabha All this time, till the forenoon of next day, when we were finally delivered up at the Nabha Gaol, the joint handcuff and the heavy chain kept us company Neither of us could move at all without the other's co-operation To be handcuffed to another person for a whole night and part of a day is not an experience I should like to repeat

'In Nabha Gaol, we were all three kept in a most unwholesome and insanitary cell It was small and damp, with a low ceiling which we could almost touch At night we slept on the floor, and I would wake up with a start, full of horror, to find that a rat or mouse had just passed over my face

TRIAL

'Two or three days later we were taken to court for our case, and the most extraordinary and Gilbertian proceedings went on there from day to day The magistrate or judge seemed to be wholly uneducated He knew no English of course, but I doubt if he knew how to write the court language, Urdu We watched him for over a week, and during all this time he never wrote a line If he wanted to write anything he made the court reader do it We put in a number of small applications He did not pass any orders on them at the time He kept them and produced them the next day with a note written by somebody else on them We did not formally defend ourselves We had got so used to not defending cases in court during the non-co-operation movement that the idea of defence, even when it was manifestly permissible, seemed almost indecent But I gave the court a long statement containing the facts, as well as my own opinion about Nabha ways, especially under British administration

'Our case was dragging on from day to day although it was a simple enough affair Suddenly there was a diversion One afternoon after the court had risen for the day we were waiting in the building, and late in the evening, at about 7 p m, we were taken to another room where a person was sitting by a table and there were some other people about One man, our old friend the police officer who had arrested us at Jaito, was there, and he got up and began making a statement I inquired where we were and what was happening I was informed that it was a court-room and we were being tried for conspiracy This was an entirely different proceeding from the one we had so far attended, which was for breach of the order not to enter Nabha territory. It was evidently thought that the maximum sentence for this breach being only six months was not enough punishment for us and a more serious charge was necessary. Apparently three were not enough for conspiracy, and so a fourth man, who had absolutely nothing to do with us, was arrested and put on his trial with us This unhappy man, a

Sikh, was not known to us, but we had just seen him in the fields on our way to Jaito.

'The lawyer in me was rather taken aback by the casualness with which a conspiracy trial had been started. The case was a totally false one, but decency required that some formalities should be observed I pointed out to the judge that we had had no notice whatever and that we might have wanted to make arrangements for our defence. This did not worry him at all. It was the Nabha way If we wanted to engage a lawyer for our defence we could choose some one in Nabha When I suggested that I might want some lawyer from outside I was told that this was not permitted under the Nabha rules We were further enlightened about the peculiarities of Nabha procedure. In some disgust we told the Judge to do what he liked, but so far as we were concerned we would take no part in the proceedings I could not wholly adhere to this resolve. It was difficult to listen to the most astounding lies about us and remain silent, and so occasionally we expressed our opinion, briefly but pointedly, about the witnesses. We also gave the court a statement in writing about the facts. This second judge, who tried the conspiracy case, was more educated and intelligent than the other one.

'Both these cases went on and we looked forward to our daily visits to the two court-rooms, for that meant a temporary escape from the foul cell in gaol. Meanwhile, we were approached, on behalf of the Administrator, by the Superintendent of the gaol, and told that if we would express our regret and give an undertaking to go away from Nabha, the proceedings against us would be dropped. We replied that there was nothing to express regret about, so far as we were concerned, it was for the administration to apologise to us. We were also not prepared to give any undertaking.

'About a fortnight after our arrest the two trials at last ended All this time had been taken up by the prosecution, for we were not defending Much of it had been wasted in long waits, for every little difficulty that arose necessitated an

adjournment or a reference to some authority behind the scenes —probably the English Administrator On the last day when the prosecution case was closed we handed in our written statements The first court adjourned and, to our surprise, returned a little later with a bulky judgment written out in Urdu Obviously this huge judgment could not have been written during the interval It had been prepared before our statements had been handed in. The judgment was not read out, we were merely told that we had been awarded the maximum sentence of six months for breach of the order to leave Nabha territory

'In the conspiracy case we were sentenced the same day to either eighteen months or two years, I forget which This was to be in addition to the sentence for six months Thus we were given in all either two years or two and a half years

'Right through our trial there had been any number of remarkable incidents which gave us some insight into the realities of Indian State administration, or rather the British administration of an Indian State The whole procedure was farcical Because of this I suppose no newspaperman or outsider was allowed in court The police did what they pleased, and often ignored the judge or magistrate and actually disobeyed his directions The poor magistrate meekly put up with this, but we saw no reason why we should do so On several occasions I had to stand up and insist on the police behaving and obeying the magistrate Sometimes there was an unseemly snatching of papers by the police, and the magistrate being incapable of action or of introducing order in his own court, we had partly to do this job! The poor magistrate was in an unhappy position He was afraid of the police, and he seemed to be a little frightened of us, too, for our arrest had been noised in the press. If this was the state of affairs when more or less prominent politicians like us were concerned, what, I wonder, would be the fate of others less known?

'My father was allowed to interview me in prison. He could not be of any help to me, as I was not defending myself, and I begged him to go back to Allahabad He returned, but he

left a young lawyer colleague of ours, Kapil Dev Malaviya, in Nabha to watch the proceedings Kapil Dev's knowledge of law and procedure must have been considerably augmented by his brief experience of the Nabha Courts The police tried to deprive him forcibly in open court of some papers that he had

'So our trial was over and we had been sentenced We did not know what the judgments contained, but the solid fact of a long sentence had a sobering effect We asked for copies of the judgments, and were told to apply formally for them

'That evening in gaol the Superintendent sent for us and showed us an order of the Administrator under the Criminal Procedure Code suspending our sentences There was no condition attached, and the legal result of that order was that the sentences ended so far as we were concerned. The Superintendent then produced a separate order called an Executive Order, also issued by the Administrator, asking us to leave Nabha and not to return to the State without special permission I asked for the copies of the two orders, but they were refused We were then escorted to the railway station and released there

'From Allahabad I wrote to the Administrator requesting him to send me copies of his two orders, so that I might know exactly what they were, also copies of the two judgments He refused to supply any of these copies I pointed out that I might decide to file an appeal, but he persisted in his refusal. In spite of repeated efforts I have never had the opportunity to read these judgments, which sentenced me and my two colleagues to two years or two and a half years'*

Nehru's sojourn in the Nabha gaol was barely for twelve days, September 22 to October 4, 1923. The 'suspended' sentences never took effect

* An Autobiography (1953 Reprint), pp 109 115

4

Defiance of the Salt Law

Background

Ever since the East India Company began gaining political ascendancy in Bengal after the treachery of Plassey, salt had been used as a means of enriching the Company's representatives at Calcutta The Mughal *farman* (edict), on the basis of which the Company had enjoyed the privilege of custom-free trade, restricted the scope to the articles of export and import. It did not apply to inland trade But the Fort William Council, after it had become Nawab-maker in Bengal, extended its business to the three main articles of inland trade—salt, tobacco, and betel-nuts The English merchants in Bengal made huge profits from what their Court of Directors in England called 'illegal trade',[1] and did not withdraw from it in spite of repeated warnings given to them by the Court The Directors protested that 'the vast fortunes acquired in the inland trade have been obtained by a scheme of the most tyrannic and oppressive conduct, that ever was known in any age or country',[2] but eventually, after Clive had obtained the Diwani of Bengal from the homeless and helpless Mughal Emperor, Shah Alam II, in 1765, the 'illegal trade' was made legal, though the Directors were still protesting The first thing the Fort William Council did, on becoming 'legal' masters of the revenue affairs of Bengal, was to vest monopoly of salt (and the other two articles)

[1] Court of Directors' General Letter dated April 26, 1765
[2] Letter dated May 17, 1766

in a private Society of leading servants of the Company in Bengal, and impose a duty of 35 per cent[3] on sale. This duty rose higher and higher during British rule in India in spite of violent and non-violent protests In the early 40's of the nineteenth century, there were agitational activities in the then Bombay Presidency against an increase in the salt tax. They were limited to a few urban areas, but they manifested that the people regarded the salt tax as a distressing tax. In 1871, the Bombay Association complained in a petition to the House of Commons that 'the salt tax has been raised 100 per cent during the last twelve years' After 1885, with the birth of the Indian National Congress, attention began to be focussed more poignantly on the economic exploitation of India The Bombay Provincial Congress was more vehement than the parent body in its condemnation of the salt tax It repeatedly adopted resolutions at its annual conferences demanding reduction in the tax In 1889, the effect of the resolutions travelled as far as Manchester from where one R D Rusden wrote a letter to Tilak's paper, the *Mahratta,* saying 'I should think your "policy" as regards the salt tax should be to agitate for its total extinction as opposed to mere "reduction" . . I think the time has come to say to the Government · This is an abominable tax, we don't want any reductions, it is wrong in principle, it falls most severely on the most poor . . the whole thing is hateful and shameful and scandalous, and we insist upon the sweeping away of the tax, and if you do not repeal it, we will try and make it so hot and disagreeable for you that before long you will have to drop it Speak clearly in this way and emphasise your words by organizing a "plan of campaign" against the salt tax . advise your people to avoid the tax by preparing their own salt, wherever the presence of salt earth or salt water enables them to do so'[4]

The Congress was yet a body of moderates, and defiance of law was unthinkable Decades rolled by, and although the Congress passed into the hands of the so-called extremists, there

[3] Minutes of the Fort William Select Committee, dated Sept 18, 1765
[4] The *Mahratta,* dated July 21, 1889

was no challenge to the 'legal' authority of the British, until Gandhi appeared on the scene For the first time, under his leadership, began countrywide agitations, thousands took to law-breaking at his call By 1929, he had prepared the country for a mass civil disobedience movement, and that year's Congress session authorised the All-India Congress Committee to plan and carry out the campaign 'But all knew', as Nehru said, 'that the real decision lay with Gandhiji'

On March 2, 1930, Gandhi addressed a letter to the Viceroy, enumerating, in brief, the evils of British rule, and intimating his programme of breaking the salt laws He said in the letter 'The British system seems to be designed to crush the very life out of the *ryot* Even the salt he must use to live is so taxed as to make the burden fall heaviest on him, if only because of the heartless impartiality of its incidence The tax shows itself still more burdensome on the poor man, when it is remembered that salt is the one thing he must eat more than the rich man, both individually and collectively'

Then he went on to say 'But if you cannot see your way to deal with these evils and my letter makes no appeal to your ear, on the 11th day of this month, I shall proceed, with such co-workers of the Ashram as I can take, to disregard the provisions of the salt laws I regard this tax to be the most iniquitous of all from the poor man's standpoint As the independence movement is essentially for the poorest in the land, the beginning will be made with this evil The wonder is that we have submitted to the cruel monopoly for so long It is, I know, open to you to frustrate my design by arresting me I hope that there will be tens of thousands ready, in a disciplined manner, to take up the work after me, and in the act of disobeying the Salt Act, to lay themselves open to the penalties of a law that should never have disfigured the statute book'.

Gandhi demanded, among other things, abolition of the salt tax, but when the Viceroy disappointed him by a curt rejection, he started on his law-breaking mission with seventy-five of his chosen companions He reached his destination, Dandi beach,

on April 5, covering the distance of 200 miles between his Ashram at Sabarmati and Dandi, by foot The law was broken by picking up salt lying on the sea shore, but there was no arrest On April 6, which was fixed by Gandhi for the inauguration of the salt satyagraha throughout the country, began the mass civil disobedience At Allahabad, the campaign was started on April 9, with a batch of Congress volunteers manufacturing salt from saline earth, in contravention of the salt law.

Special significance attached to the Congress activities at Allahabad, because with them was directly associated Nehru, then president of the Congress On account of some technical flaw, the attack on the salt law on April 9 did not come within the purview of a breach, but the one of April 11 did. Nehru actively participated in the manufacture of the 'unlawful' salt, and was arrested in the morning of April 14, at the Chheoki railway station, a few miles from the Allahabad junction, where he was to entrain for Raipur in the Central Provinces (now Madhya Pradesh) To avoid crowds, a wayside station was chosen to effect the arrest. Nehru was taken to the Naini Central Jail, where he was tried the same day by a magistrate, and sentenced to six months' simple imprisonment

TRIAL

The proceedings began with the magistrate, J S Grose, reading out the charge to Nehru :

'On April 11, 1930, on the open land near the Crosthwaite Road, Allahhabad city, Congress volunteers made a display of a form of manufacture of salt, and by so doing contravened the Salt Act XII of 1882, and were thereby guilty of an offence punishable under section 9(a) and (c) of that Act

'You were present and appear on creditable evidence to have taken an active part in these proceedings You were yourself lending encouragement to the offenders and assisting the operation by throwing fuel on the fire over which salt was evaporated, and in other ways

'You thereby rendered yourself liable to a charge of abetment of the offence, and thereby to prosecution under section 9(c), Act XII, 1882 You will be prosecuted accordingly.

'The circumstances of the case and the public admission made by you shows that there was a premeditated and deliberate definance of the law'

Then there were the usual questions:

Magistrate 'Do you plead guilty, or not guilty?'

Nehru 'May I know what it is, a public trial or a private trial?'

Magistrate 'All the members of your family have been permitted to attend the court, and the representatives of the press, but not the public in general'

Nehru 'I do not propose to take part in the trial at any time But quite apart from the trial, I have stated on many occasions and I am prepared to state for your information that I have deliberately broken the salt law'

Magistrate 'Would you be prepared to sign this statement?'

Nehru: 'Rather not.'

The proceedings, however, continued in spite of Nehru's admission of deliberate defiance of the salt law, and the magistrate examined some prosecution witnesses, there being no public prosecutor The principal witness was the salt inspector, Shiv Dayal, who deposed that on April 11, he received information about the manufacture of salt at the junction of the Hewett Road and the Crosthwaite Road He went there, and at 5 p m. saw a batch of ten Congress volunteers arrive, under the leadership of Bimal Chandra Mitra Nehru was also with them The witness then narrated the processes that were followed in the manufacture of salt First a mixture of saline earth and water was filtered through a tin When the salt was ready, Bimal Chandra and others took it in pieces of paper and Nehru also held a piece of paper.

Magistrate 'Did he himself take it on the piece of paper or somebody else gave it to him in a packet'?

Witness. 'Pandit Nehru had himself made pieces of paper for making packets of salt This process was repeated three times'

Magistrate 'What did Pandit Nehru do'?

Witness: 'He helped the volunteers by telling them if the salt was ready or not and also scraped the salt'.

Then, the witness went on, Pandit Nehru delivered a lecture.

Magistrate 'The lecture has nothing to do with the case'.

Referring to the material with which salt was prepared, the magistrate asked the witness, 'what was this deposit?'

Witness 'This deposit was a saline substance composed of earth, saltpetre and salt'.

Magistrate 'Did you see this deposit in your hand and examine it? How do you say that it was a combination of these three things'?

Witness 'I saw the deposit and from its colour I thought that it was composed of these three things'.

The magistrate was satisfied that a case for conviction under section 9(c) of the Salt Act had been made out The section provided

> Whoever commits any of the following offences (namely)
>
> (a) does anything in contravention of this Act or of any rule made hereunder
>
> (b) evades payment of any duty or charge payable under this Act or any such rule, or
>
> (c) attempts to commit, or abet, within the meaning of the Indian Penal Code, the commission of any of the offences mentioned in clauses (a) and (b) of this section, shall, for every such offence, be punished with fine, which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months or with both

JUDGMENT

The trial, beginning at 10-30 a m , lasted about two hours, and closed with the magistrate's judgment, which he read out. The judgment said .

'The accused, Pandit Jawaharlal Nehru of Allahabad, has been prosecuted under section 9(c) of the Indian Salt Act XII of 1882, for abetting the manufacture of contraband salt, on April 11th, 1930, on open land near the Crosthwaite Road, Allahabad city The salt was being manufactured by Congress volunteers under the accused's direction As the leader of the Congress volunteers, he was taking an active part in the manufacture of salt, and assisted in the operation by throwing fuel on the fire over which the salt was evaporated.

'The accused, when informed of the charge and asked whether he pleads guilty or not guilty, replied that he is not prepared to take any part in this trial He mentions for my information that he has deliberately broken the salt laws, as mentioned by him previously

'From the evidence of the salt inspector, the tahsildar of Allahabad, and Naim-ul-Haq, sub-inspector of police, there is no doubt that salt was prepared at the crossing of Hewett and Crosthwaite Roads on the evening of April 11th, 1930, by Congress volunteers under the direction of the accused who took a part in the process of manufacture

'The accused does not deny the charge, he admits having deliberately broken the salt laws

'I find the accused guilty under section 9(c) of Act XII of 1882 of abetment in the manufacture of contraband salt and sentence him to six months' simple imprisonment '

5

Instigation to manufacture Salt and not to pay Taxes

BRIEF HISTORY OF SECTION 124A

NEHRU came out of gaol on October 11, 1930, and after eight days of freedom, was again arrested on October 19, under Section 124A of the Indian Penal Code. Tens of thousands of Indians were arrested and convicted under this section, during British rule in India, and it, therefore, calls for a brief comment It was added to the Code in 1870, when, on the one hand, the Wahabis were organising conspiracies against Government, and on the other, a section of the Indian language press was giving strong expression to national urges After the retirement of Lytton and the appointment of Ripon as Viceroy of India, in 1880, the political firmament was cleared of dark clouds and section 124A remained a dead letter until 1897, in which year Bal Gangadhar Tilak, was prosecuted and convicted under it The trial of Tilak was a revelation in so far as this section was concerned It exposed the trying judge, Justice Strachey's prejudged intention to convict Tilak in spite of the fact that the prosecution was not wholly covered by section 124A under which conviction was demanded And it revealed to the Government that the section must be redrafted so that there might be no legal difficulty in future

Section 124A, then, read as follows

Whoever by words either spoken or intended to be read, or by signs, or by visible representation, or otherwise, excites or attempts to excite feelings of disaffection to the Government established by law in British India shall be punished with transportation for life, or for any term to which fine may be added or with imprisonment for a term which may extend to three years, to which fine may be added

There was an explanation annexed to the section:

Such disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government and support the lawful authority of the Government against unlawful attempts to subvert or resist that authority is not disaffection

Strachey defined 'disaffection' as 'absence of affection', and though the Full Bench of the Bombay High Court, on a reference made to it, held the definition erroneous, it upheld the conviction. Newspapers in India and England deprecated the tendentious attitude of the judge and deplored that British jurisprudence should have been thus tarnished

The *Daily Chronicle* said in an editorial comment: 'Wildness, discontent, mischievous rubbish there may be in plenty But we have got on with it and we shall get on with it again. Prove real sedition—above all, conclusively connect it with crime—and we should all favour sharp, stern punishment But there is one aspect of the sedition trials in India which must not be lost sight of And that is the new definition of 'disaffection' enunciated by Mr Justice Strachey We feel confident that such an interpretation of the law would not be tolerated in England and, if not speedily overruled, may produce grave mischief in India'.

The Government ignored the suggestions, but making itself wiser by the criticism, it recast the section, adding to it an explanation that 'disaffection' included 'disloyalty and feelings of enmity' Section 124A, as it stood at the time of the arrest of Nehru, ran as follows

Whoever by words either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty

or the Crown Representative or the Government established by law in British India or British Burma, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine

Explanation 1 —The expression " disaffection " includes disloyalty and all feelings of enmity

From the redrafted section was omitted the old explanation which defined that 'disapprobation of the measures of the Government,' was 'not disaffection' Instead of precisely defining 'disaffection', the Government made a vague provision, 'all feelings of enmity' would be regarded as 'disaffection'. By this 'legal' device, the Government gave undefined powers to the magistrates

OTHER SECTIONS

The two other sections under which Nehru was charged were (1) Section 117 of the Indian Penal Code, and (2) Section 3 of Ordinance No VI of 1930, entitled the Unlawful Instigation Ordinance [Ordinance No. VI was promulgated on May 30, 1930, to meet the extraordinary situation created by the civil disobedience movement with more stringent provisions.] They contained the following provisions:

SECTION 117 IPC

Whosoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

SECTION 3, ORDINANCE VI

Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons in a notified area, in any manner whatsoever,

shall be punished with imprisonment, which may extend to six months, or with fine, or with both

BACKGROUND

The civil disobedience movement was in progress when Nehru came out of gaol, and the task before him was to decide on the future course of action. He describes the political situation then obtaining and what he did thus:

> Both political and economic conditions seemed to me to be crying out for a no tax campaign in rural areas. The economic difficulties of the agriculturists were obvious enough. Politically, our civil disobedience activities, though still flourishing everywhere, were getting a bit stale. People went on going to gaol in small numbers, and sometimes in large groups, but the sting had gone from the atmosphere. The cities and the middle classes were a bit tired of the *hartals* and processions. Obviously something was needed to liven things up, a fresh infusion of blood was necessary. Where could this come from except from the peasantry?—and the reserve stocks there were enormous. It would again become a mass movement touching the vital interests of the masses, and what was to me very important, would raise social issues.
>
> We discussed these matters, my colleagues and I, during the brief day and a half I was at Allahabad. At short notice we convened a meeting there of the executive of our Provincial Congress Committee, and, after long debate, we decided to sanction a no-tax campaign, making it permissive for any district to take it up.
>
> Having got this permission to go ahead, our district of Allahabad wanted to take the first step. We decided to convene a representative kisan or peasants' conference of the district a week later, to give the new campaign a push. I felt that I had done a good first day's work after release from gaol. I added to it a big mass meeting in Allahabad city, where I spoke at length.[1]

It was on October 12 that he addressed the meeting, and it was for this speech that he was prosecuted. Barely two days' activities of Nehru made Government apprehensive, and it decided to restrain him, and if that method failed, to send him back to gaol. The Peasants' Conference had been fixed for October 19, and in the meantime, Nehru went off (on October 13) to Mussoorie to spend a few days with his ailing father. While returning from Mussoorie on October 17, an order under Section 144 of the Criminal Procedure Code was served on him at Dehra Dun, forbidding him to deliver any speech. At

[1] An Autobiography (1953 Reprint), pp. 232-3

Lucknow, another order under the same section awaited him, but it was not served on him, as the police officer could not reach him owing to the large crowds. He reached Allahabad on the night of October 18, and next morning at 7-30, a police officer brought to him another order, under the same Section, from the district magistrate of Allahabad (H. Bomford), saying.

> Whereas I have received information and it has been made to appear to me that you intend to address the Congress volunteers on the subject of not paying rents and similar subjects
>
> Whereas such a speech is likely to occasion risk of a disturbance of the public tranquillity
>
> I hereby prohibit you from making any speech within the Allahabad district during the next two months

This order, Nehru declined to accept, and ignoring it, he addressed the Peasants' Conference for about forty-five minutes. But it was not for the speech he made at this conference that he was arrested, perhaps because it was a private conference of delegates only, though as many as 1,600 persons were present. They were all delegates, and outsiders were not allowed to come in. 'The conference decided very enthusiastically to start the no-tax campaign in the district',[1] and the Government, in its turn, decided that Nehru should no longer be allowed to remain free Apparently fearing that the speech before the delegates might not be acceptable as a speech in public, the district magistrate invoked the one Nehru had made on October 12, and issued the following order to the superintendent of police·

> Whereas Pandit Jawaharlal Nehru residing at Anand Bhawan, Allahabad, and charged with the offence of attempting to bring into hatred and contempt the Government established by law in British India under Section 124A, Indian Penal Code, you are hereby directed to arrest the said Pandit Jawaharlal Nehru and produce him before me Herein fail not

About 8-30 p m, while Nehru was returning from a public meeting, 'a joint affair of the peasants, who had come from the surrounding villages, and the townspeople', his car was stopped by a constable on the pretext of checking the driver's licence

[1] ibid, p 233

As soon as the car stopped, the city deputy superintendent of police, who was waiting on the road, approached Nehru, and showed him the warrant of arrest issued by the district magistrate The arrest was effected, and Nehru was taken to the Naini Central Prison.

The prosecution was initiated with the following formal request (made on October 19) by the superintendent of police to the district magistrate, Allahabad

The humble petition of P H Measures, Superintendent of Police, Allahabad, sheweth

(1) That Pandit Jawaharlal Nehru delivered a speech at Allahabad on October 12, 1930.

(2) That the said speech, a translation of which is attached to the petition, attempted to bring into hatred and contempt, or to excite disaffection towards, the Government established by law in British India, and has thereby rendered the said Pandit Jawaharlal Nehru liable to punishment under section 124A of the Indian Penal Code

(3) The local Government has directed your humble petitioner to make a complaint in this court with a view to this court taking cognizance of the said offence against the said Pandit Jawaharlal Nehru The original order of the local Government is attached to this petition

(4) Your humble petitioner therefore makes this complaint that the said Pandit Jawaharlal Nehru has committed an offence under section 124A of the Indian Penal Code and prays that this court shall take cognizance thereof

(5) Your humble petitioner also submits that by delivering the said speech Pandit Jawaharlal Nehru also committed offence under section 117 of the Indian Penal Code and section 3 of the Unlawful Instigation Ordinance, 1930

TRIAL

A special order was issued by the Government of the United Provinces (now Uttar Pradesh), then camping at Naini Tal, empowering a deputy collector to try Nehru The order, dated October 18, 1939, said .

The Governor in Council is hereby pleased to empower Mr J S Grose, deputy collector and magistrate of the first class, of the Allahabad district, to try the case to be instituted against Pandit Jawaharlal Nehru

under section 124A of the Indian Penal Code, in respect of the speech delivered by him at Allahabad, on October 12, 1930

On account of the *Diwali* holidays, the trial could not be held until October 24, on which date Nehru was produced before the magistrate, who said addressing the accused:

'I, J S Grose, Magistrate First Class, Allahabad, charge you, Pandit Jawaharlal Nehru hereby as follows:—

Firstly, that you, on or about the 12th day of October 1930, at the Purushottam Dass Park, Allahabad, abetted the commission of an offence under the Salt Act XII of 1882, by instigating an assembly of about 8,000 persons that they should openly manufacture salt in their houses and villages, and thereby committed an offence punishable under section 117 of the Indian Penal Code, and within my cognizance

Secondly, that you, on or about the 12th day of October 1930, at the Purushottam Dass Park, Allahabad, in a speech instigated an assembly of about 8,000 persons not to pay taxes payable to the British Government established in India,

and thereby committed an offence punishable under section 3 of Ordinance VI of 1930 within my cognizance

And I hereby direct that you be tried on the said charge'

The magistrate then asked Nehru 'Any plea?'

Nehru: 'I do not plead at all'

Magistrate: 'Any further cross-examination from prosecution?'

Answer 'No'

Magistrate 'From defence?'

Nehru. 'No'

This was the first charge The magistrate then read out the second

'I, J S Grose, Magistrate First Class, Allahabad, hereby charge you, Pandit Jawaharlal Nehru as follows —That you on or about the 12th day of October 1930, in a speech made at the Purushottam Dass Park, Allahabad, attempted to bring into hatred and contempt the Government established by law in British India, and attempted to excise disaffection towards the said Government, vide extracts from your speech read out to you, and thereby committed an offence punishable under section 124A of the Indian Penal Code, and within my cognizance

And I hereby direct that you be tried on the said charge'

As formally as he read out the charge, the magistrate performed another formality.

Q 'Plea?'

A 'I do not plead at all'

Q 'Defence?'

A. 'No'

Q 'Any further cross-examination?'

A 'No'

Now, Nehru's speech, as transcribed by a reporter of the intelligence department from his shorthand notes, was read out to him The speech was made in Hindustani, and it was rendered into English by court officials *

The speech was listened to in pindrop silence by the crowd in the court room, and when the reading was over, the magistrate interrogated Nehru

Q 'Did you, at a meeting at the Purushottam Dass Park, on October 12th, 1930, deliver the speech read out to you?'

A 'I am not taking any particular part in these proceedings I do not congratulate this gentleman (witness) on his power of reporting Probably the speech was above him I consider myself a far better speaker than he makes me out to be'

* Appendix B

Q 'Do you deny the speech as read out to you in toto or in part?'

A 'I do not propose to answer this question'

Q 'Anything else?'

A 'I will file a written statement'

In the statement, Nehru said

'For the fifth time I have been arrested and charged with various crimes by the officials of the British Government For the fifth time, I have no doubt, I shall be convicted I have so far taken no part in this trial and I desire to take none But I wish to say a few words so that those who are trying me today and my own people, who have honoured me beyond measure, may have some glimpse of what I have in my heart

'I am charged with sedition and with the spreading of disaffection against the British Government Eight and a half years ago I was charged with a similar offence and I stated then that sedition against the present Government in India had become the creed of the Indian people, and to preach and practise disaffection against the evil which it represents had become their chief occupation For, the Indian people had come to realise that there could be no freedom for them, no lessening of the terrible exploitation which had crushed the life out of millions, till British rule was removed from India Since this realisation came upon me in all its tragic intensity, I have had no other profession, no other business, no other aim than to fight British imperialism and to drive it away from India

'On the first day of this year the National Congress finally resolved to achieve the independence of India, and on the 26th of January the Indian people pledged themselves in their millions to put an end to British rule in India They declared the age-long right of a people to subvert any government which had misgoverned and crushed them, and they charged the British Government with having exploited them ruthlessly and done almost irreparable injury politically, economically, culturally

and spiritually Since that pledge was taken there can be no willing submission of any Indian to British authority, no recognition by him of British rule, and if a few of us side with the enemy or parley with him while the fight is in progress, it is a terrible measure of the spiritual injury caused by British rule, making them kiss the rod that smites them and hug the very chains that bind them Some of these misguided and erring countrymen of ours have chosen to desert the motherland in her hour of need and talk of compromises with British imperialism, but the country has chosen another path under the guidance and inspiration of our great leader, and that path it will pursue till success comes to it There can be no compromise between freedom and slavery, or between truth and falsehood We realise that the price of freedom is blood and suffering—the blood of our own countrymen and the suffering of the noblest in the land—and that price we shall pay in full measure

'Already the world is witness to the sacrifice and suffering of our people at the altar of freedom, to the wonderful courage of our women, and to the indomitable spirit of our brave peasantry Strong is the faith with which our leader has inspired them, with confidence in themselves and in their great cause, they have willingly set aside their material pleasures and belongings, and written a stirring and a shining chapter in India's long history And the world has also seen how our peaceful struggle is sought to be crushed by frightfulness and methods of barbarism which have earned for the British Government in India a comparison with the Huns of old Unlike the Huns, however, they have added insult to deep injury and have sought, after the manner of their kind, to cover their deeds of frightfulness with a cloak of piety and sanctity Fearful of exposure, they have sought to suppress truth in every way Those whom the gods wish to destroy they first drive mad, and all the mad deeds which the British Government has done in India during the last seven months—desperate devices of a tottering empire—are visible emblems of the crash to come

'We have no quarrel with the English people, much less with the English worker Like us, he has himself been the victim of imperialism and it is against this imperialism that we fight With it there can be no compromise To this imperialism or to England we owe no allegiance and the flag of England in India is an insult to every Indian The British Government today is an enemy government for us, a foreign usurping power holding on to India with the help of their army of occupation My allegiance is to the Indian people only and to no king or foreign Government I am a servant of the Indian people, and I recognise no other master

'The end of our struggle approaches and the British Empire will soon go the way of all the Empires of old The strangling and the degradation of India has gone on long enough. It will be tolerated no longer, and let England and the world take notice that the people of India are prepared to be friends with all who meet them frankly as equals and do not interfere with their freedom But they will be no friends with such as seek to interfere with their liberties or to exploit the peasant or the worker Nor will they tolerate in future the humbug and hypocrisy which has been doled out to them in such ample measure in England

'To the Indian people I cannot express my gratitude sufficiently for their confidence and affection It has been the greatest joy in my life to serve in this glorious struggle and to do my little bit for the cause I pray that my countrymen and countrywomen will carry on the fight unceasingly till success crowns their efforts, and we realise the India of our dreams

'Long live Free India!'

JUDGMENT

On October 29, the magistrate pronounced the judgment

'The accused, Pandit Jawaharlal Nehru, has been charged under section 124A and section 117 of the Indian Penal Code and section 3 of the Unlawful Instigation Ordinance VI of

1930, in connection with a speech he made at the Purshottam Dass Park on October 12th, 1930, the day after his release from the Naini Jail The charges are as follows —

1 That he attempted to bring into hatred and contempt the Government established by law in British India and attempted to excite disaffection towards the said Government, vide extracts from his speech, which were read out to the accused

2 That he abetted the commission of an offence under the Salt Act XII of 1882, by instigating an assembly of about 8,000 persons, that they should openly manufacture salt in their houses and villages

3 That he instigated an assembly of about 8,000 persons not to pay taxes to the British Government established in India

'Three witnesses have been examined for the prosecution Mr Measures, Superintendent of Police, verified his complaint, the original order of the local Government, a translation of the speech, which he filed with the complaint, and the order empowering this court to try the case He obtained a warrant of arrest from the district magistrate, which was executed by Mr Akram Hussain, deputy superintendent of police He identified the signature of Kunwar Jagdish Prasad, Chief Secretary to Government as he has seen his signature several times on papers purporting to have come from him, which he has received during the course of official business He files a copy of the accused's speech in Urdu

'Purushottam Das, an inspector of the Criminal Investigation Department, who was present throughout the meeting on October 12th, files the accused's speech which he took down in shorthand He states that it is an exact report of the speech word for word, as delivered by the accused

'Naim-ul-Haq, sub-inspector of the *Kotwali* who was present throughout the meeting deposes to inspector Purushottam Das being at the meeting There was an assembly of 8,000 to 10,000 persons at this meeting, men of the city and villages The

accused spoke on the Peshawar Committee Report and said it had been proscribed The Congress called the British rule in India illegal, it is not surprising if they (the British) ban all their (Congress) movements as illegal He then dwelt on Muslim rights, referring to the bravery of the Muslims at Peshawar and the Frontier As president of the Congress the speaker said that there is no member of the Congress who would reject the Muslim demands They must listen to the bravery of all who are taking part in this war He then referred to the Parsis of Bombay saying they were known as half-Europeans, but now they and their ladies come to our meetings, and receive lathi blows He said there were two flags in India, the Union Jack and the national flag, it was for them to see which flag they were to serve under

'The accused said that Lord Irwin, who called himself the Lord of India, has issued eight Ordinances, and on the speaker's release from the jail, has issued a ninth Ordinance, by which it is clear that Government is being perturbed and we (the Congress) are getting stronger It is a comfort for us to see the enemy being harrassed

'As regards the Salt Act, the speaker said that it had been sufficiently disobeyed, it is now not necessary to place pans on your heads and manufacture salt in streets and lanes, salt should be manufactured in every house and in every village Taxes had been stopped in Gujerat, Bihar and Bengal; they should consider over the non-payment of taxes and carry out instructions issued to them'.

'Besides filing a written statement, the accused has taken no part in the proceedings. He refused to plead to the charge framed against him He has not cross-examined any of the witnesses for the prosecution and has no defence to offer

'Referring to the Peshawar Committee Report by the Congress, the speaker says

You may be knowing that the Government of our enemies have declared it illegal It would not be surprising if the Government, after

some time, declares everything in our possession illegal We remember what happened at Peshawar, and even today some one or other relates it to you *

'The speaker clearly attempts to win over Muslim sympathy to the Congress cause by saying

Now the question arises what do the Muslims want that the Congress does not accept This question is often asked How many of you present here will raise any objection to anything after the happenings at Peshawar Remember, how bravely these people of the Frontier have demonstrated to your country and to your province that they can be counted among the bravest of all the people in India I wish to tell you plainly that as far as I am concerned as President of the Congress, there is hardly any one in the Congress who, seeing their bravery and services, can refuse their demands †

He then talks of the bravery of the men engaged in this war:

We will recognise the demands of all those brave people who participate in this struggle It is not a question of discussion

Referring to the happenings at Bombay, the speaker says

The reason why I want to draw your attention particularly towards Bombay is that the part played by Bombay in this movement is but a small specimen for the whole country You know how at Bombay, rich and poor, Hindus and Muslims, took part in this movement in large numbers You know how the Parsees who were considered to be half-English and always sided with them are participating, with their women

* The Judge quoted from the Urdu speech in Roman Script In order to facilitate understanding, English translation has been inserted in place of Urdu passages The Urdu quotation in the judgment is as follows

"Ap jante honge ki usko is dushmanon ki Hukumatne, usko qanun ke khilaf kardia hai Aur thore din ke bad, hamari har chiz ko qanun ke khilaf kahden to kia taajjub Peshawar ka waqia hua, woh yad hai Aur apke samne aj bhi koi bhula bhakta bhai uska zikar karta hai"

† Urdu passages "Ab sawal yeh uthta hai, musalman kia chahte hain, jisko Congress manzoor nahin karti Yeh sawal aksar utha karta hai, ap men Kitne hain jo yahan maujud hain

in this movement and suffering *lathi* blows at our meetings Similarly, you have the instance of Jews and Christians What every community in Bombay has done is worthy of congratulation

'Again the position is described as a "war" and a "struggle for freedom" in which the flag of Indian freedom is opposed to the Union Jack, that everyone in the country, young and old, is fighting to eject the English Government:

I want to tell you plainly, all those who are participating in this struggle and who are ready to jump into the fire, that at present there are two flags in our country one, the Union Jack, which is ruling over us, and the other of free India Everybody has to think for himself and decide to which flag he should belong You know that a grim struggle for independence is going on in the country, and people of the country, rich and poor, are waging a war for freedom, and wish to throw off the English rule

'He then draws the attention of his hearers to ladies giving up *pardah* and going into the battlefield

The ladies have themselves come out of the *pardah*, and jumped into the battlefield

'The Pandit refers to the Round Table Conference and says, is it possible that the decision of the members, who have

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jo is waqia ke bad, jo Peshawarmen hoa, uske bad kisi bat parbhi etiraz karen, yad rakhie ki kis bahaduri se is bat ko Peshawar ki sarhad ke rahne walon ne is bat ko apke muluk ko, apke subhe ko, dikha dia ki woh Hindustan men sab se zeada bahaduron men unki ginti hai aisi halat men apke samne saf kahdun, sadar ki haisiat se Congress ke president hone ki haisiat se, apse kahta hun ke jahantak mera talluq hai, ki Congress ka kon aisa sakhsh hai unki bahaduri our khidmat ko dekhte huai unki mangen roke le"

"Jitne bahadur is larai men shamil honge, unki jo jo baten hain woh sab hamare sar ankhon par hain. Is men koi bahas ka moqa nahin hai".

"Bambai ke shahar ki bat suneye Men uski taraf apki khas tawajjah dilata hoon, woh yeh hai ki Bambai ne kis tarrah se ek nihayat zabardast hissa lia hai, woh is jang ka ek chota

been selected and appointed by the enemy and are going to consult the enemy, can be accepted by the country? He describes the mental condition of the Government the fact that a new and drastic Ordinance has been issued shows that their perturbation is increasing

> A new Ordinance has been issued You must have heard that it is a wonderful Ordinance Perhaps in no country has such a law been framed, in this manner The day this Ordinance was issued was an auspicious day Why? The Ordinances issued up to this time were not enough They (Government) are afraid, their distress and perturbation are increasing Therefore, they are trying to possess new arms in order to be able to fight our country A few days ago, the Viceroy made a speech It was an amusing speech It gave me comfort, it is human nature that a man feels comforted when his enemy is in difficulty

'On no account should his hearers consider making peace. Up to the present the Congress has not undertaken anything which it has not achieved He refers to *lathi* beatings and shootings

> Remember, we declare it on behalf of the Congress, that the step we have taken will not be retraced Our brethren have courted imprisonment, taken *lathi* blows, been fired upon, and leaving their children behind, have in their thousands gone to jail Let the Viceroy under-

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sa namuna hai Bombai men amir ne, ghareeb ne, Hindu ne, Musalman ne ek kasir tadad me kis tarah se hissa lia hai Apko malum hai ke Parsi qaum ne, jinko hamesha samajha jata tha, ki woh nim-angrez hain, aur kis tarah se angrezon ka sath unhonne dia hai, aj woh aur unki aurten kis tarah se hamare sath hain, aur hamare jalson men akar lathian khati hain Isi tarah se Isaiyon, Yahudion ko lelijie Ek ek quam ne, jojo kuchh Bambai men kia hai, woh tamam Hindustan ke liye aj mubarakbad hai'

'Is wakht mulk ke sare log, mulk ki sari qaum jo azadi ki larai larrahi hai, aur ag men kudne ko tayyar hai, men to saf kahna chahta hun, ki is wakht mulk men hamare do hi jhande hen, ek Union Jack jhanda hai, jo hamare upar hukumat kar raha hai, dusra Hindustan ki azadi ka jhanda hai Har ek ko is bat ko dekhna hai, tai karna hai ke aj woh kis jhande ke

> stand that it is impossible for this country not to fulfil the pledge she has taken Nor is it possible for her to be suppressed This country will not sit at rest until freedom is achieved, until what she is fighting for is achieved No new law, not even Martial Law, can suppress her, it is impossible to do so

The Pandit says that he believes more strongly than ever in the policy of non-violence, but at the same time quite clearly commends violence without expressly advocating it·

> We, the country and the Congress, have decided, after careful consideration that we will carry on this struggle peacefully Why have we taken this decision? Because, to Mahatma Gandhi, *ahinsa* (non-violence) is the greatest religion, and we also follow it But there are many who, conceding that *ahinsa* is good, believe that their object can be better served by violence And if ever the Congress or the country decide to change over to violence, who can stop it

'He speaks of Bhagat Singh as a gallant hero, it is proper to get rid of slavery by violence Would the Viceroy condemn violence by Englishmen in the defence of their country against the foreigner?

'From the above passages it is clear that the speaker's intention was to excite disaffection against the Government In his

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niche hai Ap jante hain ki is wakht mulk men azadi ki ek zabardast larai jari hai, aur mulk ke log, har chhote bare log, ek azadi ki larai har rahen hain, aur Angrezon ki hukumat yahan se nikalna chahte hain'

'Khud aurten parde se nikal aee hain, aur majdan-e-jang men agai hain'

'Ek naya qanun qalamband kia gaya Apne suna hoga ki woh to ek kamal ka qanun hai. Shayad kisi mulk men aisa qanun, is tarah se na bana ho Hamare liye yeh mubarak din hai, jis din yeh Ordinance nikla hai. Mubarak kiyon hai? Woh is liye ki jo yeh Ordinance nikala hai uske mane yeh hain ki unhon ne jo abtak Ordinances nikale the worh-kafi nahin the Unka dar, ghabhrahat barhti jati hai, pareshani barhti jati hai Chunache woh koshish kar rahe hain Naye, Naye hathiyar banane ki, kis tarah se woh hamare mulk ka muqabala karen.

written statement, the accused states that his object is to put an end to British rule in India.

'As regards section 117 of the Indian Penal Code, and the abetment of an offence by the public generally or by any number or class of persons exceeding ten, we have the accused addressing an assembly of about 8,000 persons from the city and villages, directing them to openly prepare salt, an offence under the Salt Act XII of 1882 This is what he says.

> Manufacture salt in every home, manufacture salt in every village, not secretly, but openly

'As regards the Unlawful Instigation Ordinance VI of 1930, two copies of the U P Gazette of June 14, and September 27, 1930, have been produced by the prosecution, giving a text of the Ordinance and the date, September 18, 1930, from which it was applicable to the Allahabad district

'The accused, in addressing the assembly tells them·

> We should assume control of our country, of our Government, and conduct them for our good and progress That would mean that the

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Viceroy sahib ne abhi chand roz hue taqrir ki thi Ek ajib-o-garib taqrir thi Usko parhkar mera dil bahut thanda hua. Yeh ek mamuli bat hai ki dushmanon ki pareshani dekh kar dil thanda hua karta hai'

'Aj ham Congress ki taraf se kahte hain ki yad rakho, Hindustan ke mulk ne jo qadam uthaya hai woh qadam peechhe nahin hataya ja sakta Hamare bhai jail jain, lathian khain, golian khain, aur apne bal bachchon ko chor kar hazaron ki tadad men jai jain Lekin woh (Lord Irwin) samajh len achchi tera se ab is mulk ne yeh irada kar lia hai, aur yah mumkin nahin ki woh isko pura na kare, aur yah namumkin hai ki woh chain se jab talak mulk men azadi na ajain ya jis bat ke liye mulk lar raha hai use hasil' na karle, yeh nahin ho sakta ab use daba lain Namumkin hai ki naye naye qanun nikal kar ya marshal law kar ke usko daba len'

laws which harmed us and benefited the English would be scrapped. That is to say that tax should not be paid on account of the laws which harmed us

'The accused clearly attempted by his speech to bring into hatred and contempt the Government established by law in British India and attempted to excite disaffection towards the said Government.

'He openly abetted the commission of an offence under the Salt Act, and instigated people not to pay taxes

'I find Pandit Jawaharlal Nehru guilty under section 124A, Indian Penal Code, and sentence him to rigorous imprisonment for eighteen months and a fine of Rs 500 (five hundred), in default further rigorous imprisonment for three months

'I further find him guilty under section 117, I P.C. for which I sentence him to rigorous imprisonment for six months and a fine of Rs 100 (one hundred), in default further rigorous imprisonment for one month Under Section 3 of Ordinance No. VI of 1930, I sentence him to rigorous imprisonment for six

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'Hamne soch samajh kar is wakht mulk ne, Congress ne, yah tai kia hai ki ham is larai ko santi se karange Kis liye yah tai kia hai Isliye ki Mahatma ji ki liye, ahinsa ek sab se bara dharam hai, aur usi ahinsa ko hambhi mante hain. Lekin bahut se aise log hain jo ahinsa ko achcha mankar bhi woh samajhte hain ki unke kam men hinsa se zeada asani hogi. Aur agar kisi wakht Congress ya mulk is bat ko tai kare woh hinsa karega, to kon usko rok sakta hai.'

'Ghar ghar men namak banaien; gaon gaon men namak banaien chori se nahim, khullam khulla banaien'

'Ham apne mulk par, apne mulk ki hukumat par qabza karen, aur usko apni taraqqi par chalayen Iske mane yah hain ki jo Angrezi qanun hain jo faida uthate hain usko band karden, aur unko nuqsan pahunchain, aur apne mulk ko jo faida pahunchain woh pahunchain, aur usko tax na den'

months and a fine of Rs 100 (one hundred), in default further rigorous imprisonment for one month.

'The latter two sentences will be concurrent and will be in addition to the sentence under section 124A, Indian Penal Code'

Soon after the judgment had been delivered and the court rose for the day, the magistrate wrote a demi-official letter to the superintendent of police for the realization of the fines.

'I attach a warrant as required under section 386(1)(a) of the Criminal Procedure Code for the realization of the fine of Rs 700 against Pandit Jawaharlal Nehru for favour of early return.

The superintendent of police, forwarding the letter to his deputy, made the following note

'Please see I doubt if much will be found Car No 3280 AD is registered in the name of Pandit Motilal Nehru and I imagine that everything else at Anand Bhawan belongs to him'

The deputy superintendent of police, in his turn, sent on the papers to the station officer of the Colonelganj police station, instructing him 'When you get into Mr Jawaharlal's room, you might be able to find suitcases, trunks, attache case, portfolio, etc. and other articles exclusively belonging to him which you can attach'

The station officer went to Anand Bhawan, made inquiries and wrote back to say.

'Nothing belonging to Pandit Jawaharlal Nehru was to be found Pandit Motilal Nehru saw the warrant and told me that there was nothing which belonged to Pandit Jawaharlal Nehru. He refused to pay the amount, and so the warrant is returned unexecuted'

It was, therefore, ordered that Nehru would be required to serve the additional terms in place of the fines, and that those terms would run consecutively

6

"This Government will be reduced to Ashes"

BACKGROUND

THE civil disobedience movement having been withdrawn by the Congress in March 1931, following a pact between Gandhi and the Viceroy, non-co-operation with Government was, for a while, in a state of animated suspension, and in August, Gandhi left for London to attend the Round Table Conference, as the Congress representative

Those were the days of an economic slump Prices of agricultural produce, especially food grains, had considerably fallen. The peasants, particularly those of U P, were in great distress U P. was a landlord-ridden province, and many landlords, with the tacit support of the Government, ejected a large number of tenants Many made undue exactions taking advantage of the Congress being in the wilderness Most peasants were reduced to utter destitution Such a state, it was believed, had not been witnessed in the countryside of U P. for decades

On account of the direct association of Nehru with the district of Allahabad, the situation was more poignantly felt there, and on September 19, the Allahabad District Congress Committee appointed a sub-committee to examine the question of rent remissions. The sub-committee extended its examination to the whole of the province, and recommended that a demand should

be made on Government to remit all rent arrears, and to order that there should be no ejectments in future Government announced some remissions, but the Congress Committee, after examining them, held that they were utterly inadequate On October 15, the District Committee sought the permission of the Provincial Congress Committee to start a no-rent and no-revenue campaign in the district. On October 16, Nehru cabled to Gandhi in London that tenants were being harassed, and that a representative peasant meeting was to be called next week at Allahabad to decide the question of non-payment of rent Gandhi cabled back to say that Nehru should take necessary steps to meet the situation On October 23, a peasants' conference, held at Allahabad, adopted a resolution, which said. 'This conference places on record the view that in case Government does not adopt suitable measures for meeting the condition, the tenants of the whole district will oppose Government by resorting to a no-rent campaign, and in this matter they will gladly carry out the instructions of the District Congress Committee'

From Allahabad, the spirit of the no-rent campaign spread to other parts of the province, and it appeared to the authorities that Congressmen were engaged in making preparations The U P Government was perturbed, and on its request, the Governor-General promulgated on December 15, 1931 an ordinance 'to provide against instigation to the illegal refusal of payment of certain liabilities and to confer special powers on the Government of the United Provinces and its officers for the purpose of maintaining law and order'. This was the twelfth ordinance of the year, it was called the United Provinces Emergency Powers Ordinance

It was for failure to comply with an order under Section 5 of this Ordinance that Nehru was arrested, and it was under section 13 that he was sentenced Section 5 said.

(1) The Local Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, may, by order in

writing, give any one or more of the following directions, namely that such person—

(a) shall not enter, reside or remain in any area specified in the order,

(b) *shall reside or remain in* any area *specified in* the order,

(c) shall remove himself from, and shall not return to, any area specified in the order;

(d) shall conduct himself in such manner, abstain from such acts, or take such order with any property, in his possession or under his control, as may be specified in the order.

(2) An order under sub section (1) shall not, unless the Local Government by special order otherwise directs, remain in force for more than one month from the making thereof

And Section 13 provided

Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 5 shall be punishable with imprisonment which may extend to two years, or with fine, or with both

Barely six days after the promulgation of the ordinance, the district magistrate of Allahabad served on Nehru an order (dated December 21, 1931), saying

'Whereas information has been laid before me and on due enquiry it appears to me that you have in the past been active *in inciting tenants not to* pay rents and are likely to continue such activities in a manner prejudicial to the public peace, I hereby order you to reside in Allahabad and not to leave municipal limits without my sanction or that of the superintendent of police

'I further prohibit you (1) from taking part without my sanction or that of the superintendent of police in the organisation of any *hartal* or public meeting and from speaking at any such meeting or in any public place, (2) from publishing without any sanction from me or that of the superintendent of police any pamphlet, book, letter or article, or permitting any pamphlet, book, letter or article written by you to be published

'This order will be in force for one month'

Nehru refused to abide by the order, and wrote back to the District Magistrate, saying

'On arrival at Chheoki last night I received a notice signed by you purporting to be an order under section 5 of the U P Emergency Powers Ordinance of 1931 I am desired in this notice to restrict my activities in a variety of ways and to refrain from leaving the municipal limits of Allahabad without your sanction or that of the Superintendent of Police I should like to inform you that I am not in the habit of taking orders from any one except the great organisation of which I have the honour to be a member It is for the Indian National Congress to order me and I recognise no other authority It appears to be your desire to make me a virtual prisoner in Allahabad town and to cut me off from my friends and colleagues and prevent me from carrying out the duties which have been entrusted to me I cannot agree to any limitations to my activities, much less can I submit to anything that interferes with my work as the General Secretary of the All India Congress Committee and as an office bearer or member of other committees and boards So long as I am physically capable of doing so, I shall endeavour to do justice to the work with which I have been charged

'I should like to inform you therefore that I propose to carry on all my usual activities without seeking any permission from you or the Superintendent of Police In particular I have to inform you that I shall leave Allahabad whenever any work demands my presence elsewhere Within two or three days I propose to go to Bombay to meet Mahatma Gandhi and to attend a meeting of the Working Committee of the Congress

'I should further like to make it clear that I shall continue to give publicity to my views in regard to any matter whenever I think it desirable to do so As it has often happened that the Provincial Government and the district authorities of Allahabad have given publicity to false and misleading statements in regard to facts, I shall place the truth before the public whenever the necessity for that may arise

'As I can only accept the decisions of the Congress in regard to my public work, I am prepared to place, should you so desire it, any communication from you or your Government before the Working Committee of the All India Congress Committee or the council of the U P Provincial Congress Committee for their directions

'I should like to point out that your notice asking me not to leave the municipal limits of Allahabad was served outside these limits It is not quite clear to me how I was supposed to confine myself to Allahabad town when I was actually many miles away from it at the time of service of the notice'

On December 26, in the morning, Nehru left Allahabad for Bombay to attend a meeting of the All-India Congress Committee, and also to welcome Gandhi back home from London The departure, without the 'sanction' of the district magistrate or the superintendent of police, constituted, according to the letter of the U P Emergency Powers Ordinance of 1931, an offence, and the magistrate, therefore, ordered the arrest of Nehru. The Bombay Mail was stopped, with previous arrangement with the railway authorities, at Iradatganj, a wayside station outside the municipal limits, where the superintendent of police was already present with a posse of constables The time of Nehru's intended departure had been found out by the district magistrate through the intelligence staff, and all arrangements for effecting the arrest were made quietly As soon as the train stopped, the superintendent entered Nehru's compartment and told him that he had come to arrest him On Nehru inquiring if there was any warrant for arrest, the superintendent replied that the offence for which he was being arrested was cognizable and non-bailable, and that under the provisions of the Ordinance a warrant was not necessary His luggage was taken down, and he was escorted, in a closed prison van, to the Naini Central Prison.

TRIAL

On January 4, 1932, he was produced before a magistrate—the trying magistrate this time being an Indian—who read out the following charge to him·

'I, Sohan Lal Srivastava, hereby charge you, Pandit Jawaharlal Nehru as follows:

'That you, on or about the 26th day of December, 1931, disobeyed the order duly issued by the District Magistrate of Allahabad, under section 5 of the U P Emergency Powers Ordinance, and served on you on 22-12-1931, by leaving the municipal limits of Allahabad, without necessary sanction, and thereby committed an offence punishable under section 13 of the U P Emergency Powers Ordinance XII of 1931, and within my cognizance

'And I hereby direct that you be tried on the said charge'

After listening to the charge, and when the magistrate asked him whether he had to say anything, Nehru replied that he did not wish to take any part in the proceedings of the trial, adding, however, that he might say something if the court wanted him to make a statement.

The magistrate prescribed a condition He said that he would permit a statement if it was connected with the charge, but if Nehru wanted to make a statement of a political nature, then he would hear it after getting the court room cleared of the visitors

Nehru considered this an extraordinary procedure, and told the magistrate that he (magistrate) had the right to convert a public trial into a private one The statement he wanted to make, Nehru said, was about 'basic things' He was about to read the statement when the magistrate asked the superintendent of police, who was present in the court room, to clear the room of the spectators for the time being This was a rare happening in a court, and Nehru hurled a banter at the magistrate 'The morale of the people here is very good They are not likely to be prejudiced by what I would say.'

Before, however, the spectators were asked to leave the room, Nehru said he would not read his written statement, and started making an oral one He began by saying:

'I am not particularly interested in the present proceedings against me, but I should like to express my deep gratitude to the peasants in these provinces who have given me this fresh opportunity of service, and I must also like to say that I am proud of my kisan brethren in these provinces, especially in my district of Allahabad'

Hardly had he finished the first sentence that he was interrupted by the magistrate, who said that he had had foretaste of the statement which Nehru was going to make: it referred to *kisans,* and he would not permit it

How could the *kisans* be irrelevant to the present proceedings, Nehru suggested, and asked if all the proceedings of the trial and the Ordinance under which they were being held, had not 'the question of the *kisans* in the background or the foreground'

Magistrate 'The proceedings are concerned with only a part of the Ordinance which relates to the disobedience of the order of the district magistrate As you are going into "basic things", my only course is to clear the court of the audience before I hear you'

Nehru. 'I wish to lay before the court in a few sentences my motive for what I did, and I think that it is necessary for the magistrate, as the presiding officer to understand what I did. It will help you to decide about the sentence'

Magistrate 'I say I shall hear you, but after clearing the court room of the audience'

Nehru declined to submit to this procedure, and sat down saying, 'This Government will be reduced to ashes'

But, as had been his principle in the previous trials, he filed a written statement (It was not read out, and the request of the press to have a copy of it was turned down) In the statement, Nehru said

'I wish to say nothing about the present proceedings against me I should like to express my deep gratitude to the peasantry

of these provinces for the fresh opportunity of service that they have given me And I should like to say how proud I am of my *kisan* brethren of my province and especially of my district of Allahabad They have lighted a fire which will spread and burn brightly till it has consumed and reduced to ashes the British domination and exploitation of this country, which has sucked the life-blood out of them, and till it has put an end finally to the system which has ground them down and deprived them of the fruits of their toil, and reduced them almost to the level of the beasts of the field For long years I have laboured to this end, and so long as any strength is left in me, I will carry on this fight Inside prison walls I shall think of many things, but most frequently my mind will dwell on the villages and fields where my kisan brethren live and labour and suffer, and my good wishes will go out to them and I shall pray that success may come to them in this great struggle, so that their present sufferings and misery may become an evil dream of the past Till such success comes there can be no compromise and no peace

JUDGMENT

A little while after the statement had been filed the magistrate pronounced the judgment:

'The district magistrate of Allahabad, duly empowered under section 5 of the U P Emergency Powers Ordinance with all the powers of a local Government, issued an order which was duly served on the accused, Pandit Jawaharlal Nehru on 22nd December, 1931, as is proved by the statement of the sub-inspector who served the order on him and took his signature thereon after giving him a copy On the 23rd of December, 1931, Pandit Jawaharlal Nehru, by way of a reply wrote a letter to the district magistrate, in which he clearly said that he recognised no other authority except that of the Indian National Congress and declared that he could not agree to any limitation on his activities. In short he set at defiance all law and authority On the 26th of December, 1931, he was arrested by the Superintendent of Police of Allahabad at Iradatganj railway station, outside the municipal limits of Allahabad, which he had been prohi-

bited to leave by the said order This is proved by the evidence of the superintendent of police, who actually arrested him at Iradatganj, and who also proves the signature of the accused on the letter' (*He wrote to the district magistrate on December* 23)

'The accused in his statement before me had nothing to say in explanation of the circumstances appearing against him in evidence and began a statement about the kisans. I then pointed out to him that if he wanted to make a statement in that strain, I shall clear the court before hearing him. He then stopped with a curse on the Government and handed to the court a written statement, in which I fail to find anything in his defence or as extenuating the crime with which he has been charged. He refused to plead or to produce any defence or in fact take any part in the proceedings. I, therefore, find an offence under section 13 clearly proved against him His letter to the District Magistrate clearly shows the spirit in which he deliberately disobeyed the order in defiance of law and authority, and this is a circumstance which to my mind aggravates the offence and I see no reason why he should not be given the maximum sentence. I therefore convict him of an offence under section 13 of the U P Emergency Powers Ordinance and sentence him to two years' rigorous imprisonment and a fine of Rs 500/- (five hundred) or in default to six months' further rigorous imprisonment'

The fine was not paid, and the magistrate and the police proceeded to recover it by attachment of property A motor car, belonging to a member of the Nehru family, was seized, and an advertisement announcing the date of its auction, was inserted in the two English dailies of Allahabad, the *Pioneer* and the *Leader* The 'auction' was a quiet affair and 'confidential' too Only a few people turned up to bid, and Dr (Mrs) L. Singh, who, with the highest bid of Rs 1,150 got the car, requested the auction officer to keep her name 'strictly confidential' The sum realised was in excess of the fine but the balance was not returned to the owner of the car, and was withheld to be 'utilised in paying off the income tax and other charges incurred on account of the printing and publication of the advertisement, etc'

of these provinces for the fresh opportunity of service that they have given me And I should like to say how proud I am of my *kisan* brethren of my province and especially of my district of Allahabad They have lighted a fire which will spread and burn brightly till it has consumed and reduced to ashes the British domination and exploitation of this country, which has sucked the life-blood out of them, and till it has put an end finally to the system which has ground them down and deprived them of the fruits of their toil, and reduced them almost to the level of the beasts of the field For long years I have laboured to this end, and so long as any strength is left in me, I will carry on this fight Inside prison walls I shall think of many things, but most frequently my mind will dwell on the villages and fields where my kisan brethren live and labour and suffer, and my good wishes will go out to them and I shall pray that success may come to them in this great struggle, so that their present sufferings and misery may become an evil dream of the past Till such success comes there can be no compromise and no peace

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offence, and the Home Member said in reply that it was a matter of opinion But the Government had taken a definite decision to prevent the session, and among the measures they took were: (1) The reception committee was declared unlawful; its chairman and secretary were arrested (2) The police were authorised to arrest any person suspected of having connection with the Congress (3) The railway superintendent of Allahabad division was asked to issue instructions to all station masters in the division not to issue tickets to persons suspected to be delegates to the Congress (4) The people of Calcutta were warned against harbouring Congress delegates or giving a house for the reception committee (5) The President designate, Madan Mohan Malaviya, was informed by the district magistrate of Allahabad that he would not be allowed to attend the session (6) Prominent Congressmen of Calcutta, about 500, were taken into custody (7) Congressmen proceeding to Calcutta from different places were arrested on the way (8) Malaviya, who violated the district magistrate's order, was arrested at Asansol (9) All the 59 parks of Calcutta were strongly guarded in order to prevent any of them being used as a site for the Congress session.

In spite of these restrictions and precautions, of the 2,500 delegates who had started for Calcutta, about 1,500 managed to reach there; the rest were arrested on the way A painful ordeal awaited these 1,500 at the destination For two days many of them were belaboured, beaten and tortured. An idea of the brutalities can be had from the following extract from a statement Malaviya issued later

> On the evening of the 30th of March, 89 delegates from the U P, after having been taken into custody in the course of a police raid, were assaulted by European or Anglo-Indian police sergeants in the Lal Bazar Thana The assault was wanton, brutal and evidently premeditated Many of the delegates suffered severe contusions on their faces They were belaboured with sticks and fists Only a few of the sergeants had sticks, the main body of them used their fists Blows were freely directed at the stomach, chest, face, eyes and head Delegates who tottered under a blow which fell on the right side received another immediately on their left When a prisoner who had been cuffed in the stomach placed his hands there a shower of fists fell on his unprotected head and face Anyone who lowered his head got a violent punch on his chin Those

who fell down under the assault were kicked with heavy boots One delegate from Etawah who tried to protect his head with his hands was seized by several sergeants who dashed his head against a wall and kept him pressed to it by the throat His head was badly injured and bled profusely Several delegates were unconscious or semiconscious for a long time after the assault was over Over a dozen delegates bled either from a torn lip, an injured eye, broken teeth or a broken head The sergeants kept punctuating their brute-like beating with foul abuse Every one of the delegates had perforce to pass through the double row of sergeants and none of them escaped the assault Some of these men were permanently disabled

A similar beating was administered to the delegates confined in two other police stations in Calcutta.

Yet, to the chagrin of the authorities, the Congress session was held punctually at 3 p m at the Esplanade, one of the busiest quarters of Calcutta, under the presidency of Mrs Nellie Sen-Gupta Two hundred and fifty delegates were present After the presidential address had been read out, seven resolutions were hurriedly adopted Then, the police arrived, and what it did is described thus by Malaviya: 'Eventually the police made a lathi charge, dispersed the huge crowd which had gathered and arrested the delegates They bore the assault calmly Delegate after delegate as he stood up to move resolutions was violently attacked by sergeants wielding *lathis* with all their might One delegate, a *vakil* from Arrah, who kept persistently reading a resolution in spite of a shower of blows, had his spectacles broken and one of his eyes severely injured The *lathi* blows were supplemented by kicking'

The Civil Disobedience movement which was suspended in May 1933, was restarted in August in an attenuated form The new form which the acting Congress President, M S Aney, adopted, in consultation with Gandhi, was (1) Mass civil disobedience including no-tax campaign should be discontinued, (2) individuals should offer civil disobedience on their own responsibility, (3) secret methods should be abandoned, (4) all Congress organisations including the office of the All-India Congress Committee should cease to exist for the time being, and dictators should be appointed Gandhi was to be the first satya-

grahi of the individual movement, but he was arrested with 34 inmates of his Ashram on the previous night. Once again there was a tempo in the movement, and a regular stream of civil resisters was flowing into the jails.

The new movement was a month old when Nehru came out of prison on August 30. Almost immediately he resumed his public activities To quote him:

> I could not settle down to anything, and I was in a hurry to get through as much as possible And yet I had no desire to invite arrest, and to a large extent I avoided activities which might lead to it Invitations came to me from many places in the province and outside to undertake a tour I refused them, for any such speaking tour could only be a raging campaign which would be abruptly ended There was no half-way house for me then When I visited any place for some other object—to confer with Gandhi and the Working Committee members—I addressed public meetings and spoke freely

For many years, Bengal had been honey-combed with terrorist activities, and although they were on the decline in 1934, they still required vigilant watching by the authorities. The district of Midnapur claimed particular attention, during the previous years, several district magistrates of that district had been murdered one after the other by the revolutionaries The political situation on the Congress front too was yet quite tense, and the Calcutta press was under the strong thumb of the Government censor

Such was the situation when Nehru visited Calcutta in the middle of January 1934 A little while before his arrival and his appearance before a public meeting, there was a route march of the troops through Midnapur district, and there was an outcry against the excesses committed by them on the civil population When the reports of the incidents reached Calcutta, a public meeting was called to express protest The meeting was held on January 17, 1934, and it was here that Nehru made his first speech during the visit More than half a dozen persons spoke at the meeting One of them suggested that there should be a countrywide agitation over the incidents Nehru supported this suggestion, but regretted that usually such agitations remained

confined to resolutions and speeches Next day, he again spoke at the same place, Albert Hall, and this time at a meeting of the students He spoke of the evils of imperialism, and said that the present situation in India was a part of the world situation The same day he addressed another meeting at another place, Maheshwari Bhawan It was these three speeches, which provided material for his seventh trial.

After a stay of three and a half days in Calcutta, Nehru left for Patna, and toured the province of Bihar for about three weeks (Bihar had recently been rocked by an earthquake) He returned to Allahabad on February 11, 'dead tired' Next day, at half-past six, when he was standing in the verandah of his house, a car drove up and a police officer alighted Nehru went up to him and said: 'I have been waiting for you for a long time' The officer—a city deputy superintendent of police—was a little apologetic and said that he was not to blame; the warrant was from Calcutta Nehru was immediately taken to Naini railway station where the Calcutta Mail was stopped specially to enable the police and their prisoner to entrain He had been out only five months and thirteen days

TRIAL

The police party escorting Nehru reached Calcutta in the morning of February 13, and produced him at 12 noon before the Chief Presidency Magistrate, S. K Sinha, in his chamber The magistrate offered to release Nehru on a bail of Rs 2,000, but on the latter's refusal to take advantage of the offer, remanded him to jail custody till February 15, on which date the trial was held

Opening the prosecution case, the public prosecutor, Rai Bahadur T N Sadhu, said that 'this gentleman delivered three speeches, two at Albert Hall on January 17 and 18 in English and the other at Maheshwari Bhawan in Urdu on the evening of January 18' These speeches constituted the subject matter of the charges The public prosecutor contended that the language used by the accused in his speeches would go to show that he

intended to bring the Government into hatred and contempt. The language used left no doubt that his intention was to that effect, for it was not necessary for him to use that language unless his intention was to preach sedition

The prosecutor's inaugural speech was followed by the evidence of half a dozen police officials, who had reported for the Criminal Intelligence Department the three speeches One by one they entered the witness box, and deposed that they had taken down the speeches, and that they had done so correctly.

Inspector L N Banerjee of the Special Branch of the Criminal Investigation Department, who took down the Urdu speech in long hand (not in shorthand unlike others) was asked some extra questions by the prosecutor, the intention being to prove that Maheshwari Bhawan (where the Urdu speech was made) was a public building and the speech was a public speech.

There was no such doubt about Albert Hall

Public prosecutor 'What was the meeting about?'

Witness 'About the situation in India and the duty of the people'

Court: 'Was the meeting announced?'

Witness 'I received intimation about the meeting in my office'

Court. 'What is Maheshwari Bhawan?'

Witness · 'It is a public building'

The seventh man to appear as prosecution witness was Inspector B. N Sen Gupta, who claimed to have taken down long hand notes of the English speech at Albert Hall on January 17 About 1,500 people, mostly students and young men, Sen Gupta said, attended the meeting.

Public prosecutor 'What was the meeting about?'

Witness 'It was about alleged excesses committed by troops and route marches in Midnapur.'

And the last witness was Inspector G B Roy, who claimed to have taken down long-hand notes at the Albert Hall meeting of January 18 He said that the meeting was called by the students to have Nehru as a lecturer on the present situation in the country About 1,200 people, mostly students, were present

From the material provided by the public prosecutor's address, the evidence of the prosecution witnesses, and the police reports of Nehru's speeches, the magistrate reached the conclusion that a case had been made to prosecute the accused under section 124-A of the Indian Penal Code, and framed a charge of sedition With usual formality, the charge was read out to Nehru, and as usual he refused to make any plea, or to participate in the trial in any way He would, however, like to make a statement, he added, if the magistrate permitted it The permission was accorded, and Nehru began by congratulating the reporters 'for the very good transcriptions' they had done of his English speeches, and by criticising those who reported his Urdu speech, which was 'scrappy and incomprehensible' 'This report of my speech,' he added, 'does less than justice to me'

Then he congratulated Government

'I should like to express my gratitude to the Government of Bengal for the opportunity they have accorded me by taking these proceedings against me to associate myself in a small measure with the past and present lot of the people of Bengal This is a privilege I shall long treasure'

He admitted that not only in these speeches but for many years before this his activities had been seditious, if by sedition was meant the desire to achieve the independence of India and to put an end to foreign domination. And as he was saying that his two speeches at Albert Hall were largely concerned with the events in Bengal—Midnapur, Chittagong, and elsewhere—the public prosecutor, looking into the eyes of the magistrate interjected saying 'Is the accused entitled to make another seditious speech here?' The magistrate felt as if he had been shaken to a sense of duty of which he had become oblivious, and asked Nehru not to proceed further For a while, there was hushed silence in the court room which had, when the trial started,

been cleared of the people who came to watch it, but which was still crowded with lawyers

The formalities of the proceedings were quickly gone through, and the whole thing did not take more than an hour

Extra police sergeants were posted inside and outside the court-room 'When I was taken to the court-room,' says Nehru, 'I had to march through a long passage (inside the room) which was closely wired on top and at the side It was like going through a cage'

JUDGMENT

Next day, February 16, the magistrate pronounced the judgment, sentencing Nehru to two years' simple imprisonment.

'The accused, Pandit Jawaharlal Nehru, has been charged with having delivered three seditions speeches, the first at the Albert Hall on January 17, 1934, the second at the same place on the following afternoon, and the last at Maheshwari Bhavan, a public hall in Sovaram Basak Street, the same evening The first two speeches were delivered in English and the last one in Urdu Government reporters who attended these meetings took short-hand and long-hand notes of all the speeches Transcriptions were made thereafter, as also an English translation of the speech in Urdu The accused admits the correctness of the report of the first two speeches; he has stated that they represent substantially all that he said on those occasions. The report of the third speech, however, he states, is somewhat of a travesty of his utterance As this last speech is mainly a repetition of what he had said on the two previous occasions, it is unnecessary to enter into the alleged inaccuracies of reporting

'The meeting at the Albert Hall on January 17, 1934 was convened to voice a public protest against excesses committed by the troops in their route marches in the district of Midnapur. The second and third public meetings were held with the object of discussing the present political situation in India and the duties of the Indian people

'In view of the statement made by the prisoner in pleading to the charges, it seems to me it would be altogether superfluous to discuss a single line of any of the speeches The accused has stated it in the court that for many years his activities have certainly been seditious if by sedition is meant the desire to achieve the independence of India and to put an end to foreign domination; he has laboured to that end with all his strength for many long years, as the years go by, his conviction has grown stronger within him that there can be no freedom for the Indian people so long as there is a trace of British Rule left on the face of the country, he has, therefore, attempted in a small degree to put an end to British Rule in this country, if that is sedition, he admits he has been seditious for many years

'A cursory perusal of the speeches shows that they are animated by an implacable hostility to the established Government In the first speech reference is made to recent events in the district of Midnapur The speaker sees in the measures taken by Government to restore law and order in that province nothing but the attempt of an arrogant imperialist power to humiliate not the city of Midnapur, not the few people of the district but the whole of India, because it is a matter of humiliation to every Indian from the Khyber Pass to Cape Comorin For this he attributes the blame not to any individual or group of individuals but to a system, a cruel and vicious system that afflicts all who adopt themselves thereto, it is this machine, he says, that crushes the whole country He goes on to speak of the innate and inherent vulgarity of Imperialism, its utter cruelty and its vandalism, its shamelessness, its callousness There is a good deal more in the same strain.

'It seems superfluous, in the face of all this, to observe, that the speeches in question are highly seditious The speaker's intentions are avowed and admitted

'I find him guilty under Section 124-A I P C On the first charge he is sentenced to undergo two years' simple imprisonment No separate sentences are passed on the other two charges

'The prisoner will be placed in the Division I'

8

Out to Excite Disaffection

Background

WHEN the World War broke out in September 1939, provincial administrations in India had elected governments, which, under the Government of India Act, 1935, enjoyed a considerable measure of provincial autonomy In most of the provinces, the governments belonged to the Congress Party, which had thumping majorities in the legislatures The Congress Governments were stunned when they learnt that, without any consultation with them, the Viceroy of India had declared this country as a belligerent within a few hours of the declaration of war by the United Kingdom An amendment to the Act of 1935 was rushed through the British Parliament in eleven minutes, empowering the Viceroy to override the provisions of the Act even in respect of provincial autonomy The same day the Defence of India Ordinance was issued by the Viceroy, considerably curtailing civil liberties of the people

The Congress was face to face with a difficult situation, and felt called upon to make a decision for itself and for its governments The Congress Working Committee was called in conference, and after five days' prolonged discussions, the committee made its decision and issued a statement in which it said

> The Governments of Great Britain and France have declared that they are fighting for democracy and freedom and to put an end to aggression During the war of 1914-18 also the declared war-aims were the preservation of democracy, self-determination and the freedom of

small nations, yet the very Governments which solemnly proclaimed these aims entered into secret pacts embodying imperialist designs for the carving up of the Ottoman Empire If the war is to defend the *status quo*, imperialist possessions, colonies, vested interests and privileges, then Indians can have nothing to do with it If, however, the issue is democracy and a world order based on democracy, then India is intensely interested in it.

The Working Committee, therefore, invited the British Government to declare in unequivocal terms their war aims and how these aims were to be given effect to in India The committee emphasised that it was far more important to give immediate effect to these aims, to the largest possible extent, for only this would convince the people that the declaration was meant to be honoured

The Viceroy opened a series of interviews in which he met as many as fifty-two leaders supposed to be representing various political parties and other interests in India At the end of the interviews, on October 18, the Viceroy announced that the British Government would frame such modifications of the Government of India Act 1935 'as may be desirable' For the present he said he would establish a Consultative Group, representative of all major political parties in India and of the Indian princes to be associated with the conduct of the war Gandhi's reaction to this announcement was 'The Congress asked for bread and it is given stone'. The Working Committee, after examining the announcement, said that 'it cannot possibly give any support to Great Britain for it would amount to an endorsement of the imperialist policy which the Congress has always sought to end' Once again the Congress returned to the path of non-co-operation, and its first step was to withdraw its ministries, and by December 1940 all Congress governments were out of office The government of Nehru's home province, U P, was one of the first to go out—it resigned in October, a few weeks before he was arrested for the eighth time.

The All-India Congress Committee, at a meeting held at Bombay on September 15, 1940, had given full powers to Gandhi to start a movement in whatever manner he desired At that

meeting, he made a speech in which he offered an alternative to the Government to avoid conflict. He said 'If we can get a declaration from the British Government that the Congress can carry on anti-war propaganda, and preach non-co-operation with the Government in their war effort, we will not have civil disobedience' Gandhi sought an interview with the Viceroy and met him on September 27, and the Viceroy told him that the action suggested by him would amount to inhibition of India's war effort A year had elapsed since the war began, and during this period over 2,000 Congressmen and women had been arrested, and a large number of people had been directed (1) to report themselves at the police stations at regular intervals, (2) not to take part in any subversive movement or indulge in any anti-war campaign, (3) not to converse, communicate or associate with any school or college students, (4) not to attend meetings of any kind, and (5) to notify in person departure from one place to another to the police station at least 24 hours before the time of departure

At long last, a symbolic anti-war movement, called individual *satyagraha*, began on October 17, 1940, with Vinoba Bhave, delivering an anti-war speech before a rural audience He was chosen to be the first satyagrahi by Gandhi Nehru was to be the second, to offer satyagraha on November 6 But he was arrested on October 31, for the three speeches he had made in the district of Gorakhpur, on October 6 and 7. The following is a press summary of the speech he made in Laldiggi * (Gorakhpur, U P)

'Addressing a gathering of about 5,000 persons Nehru said that the war was changing the map of the world and would continue to do so This war brought many problems in its wake, which had to be understood The world had never seen such a war All previous wars were either political or religious or social, and the revolutions that followed them affected one or two nations But the present war was quite different

* The other two speeches were almost similar to the Laldiggi speech

'The world had never been so closely linked as it was today One important incident in one part of the world was bound to influence the entire world It was indispensable for us to understand the history of the world as it existed today We could not be blind to what was taking place in China or Japan or any other country The problems that the war was going to solve were the problems of the world Those problems would not be of one particular country It was impossible to solve the problem of America or Japan individually and to leave apart the problem of India, because the world was so closely linked together that solving of one country's problems involved the solving of the problems of other countries So the steps that we in India had to take must be firm and steady The present revolution, which confronted the world, was not only political, but it was also social and economic

'Tracing the origin of these problems, Nehru said that during the past few years, Europe and America produced immense wealth by draining the wealth of Asia But at the same time unemployment went on increasing in those continents So much so that today the registered figure of the unemployed in America stood at 12,00,000 and in England at 22,00,000 and these men were quite healthy Unemployment always retarded the progress of a country This problem was one of immense importance. The present economic structure of the world had completely failed to solve this problem It had no solution for it

'A great upheaval swept Russia, and it changed the present economic structure of the world to a certain extent That system solved the problem of unemployment, and the Russian Government assured the people that it had sufficient work for its countrymen There were many things in Russia with which Nehru said, he might not agree, but he thought that Russia at least devised some means to solve the baffling problem of unemployment

'It was true that Hitler had usurped the freedom of the Germans, but he too had driven unemployment out of his country If we were to choose between freedom and starvation,

we would certainly forego freedom That was why the whole German nation was today behind Hitler Other countries, except Russia and Germany, had failed to solve the problem of unemployment The progress of Great Britain came to a halt before this wall of unemployment as its system of administration had no solution for it This problem had to be solved and Nehru thought that some phases of it were disappearing in the present war

'Continuing Nehru said that we were living in a very eventful period of history, and we had to face many odds There were some among us who were terrified at the march of these events, but there were those also who welcomed it The events would march on whether we faced them with a weak and timid heart or we faced them boldly It was only natural that the strong would overpower the weak But if we faced them strongly, we had the power to bend the trend of the revolution in our favour

'Big achievements demand big sacrifices If we wanted to win freedom we must make sacrifices worthy of it We must bear in mind that the march of the mighty events of the world would have to be faced and we could not escape them But at the same time we must see that we paid the price and did not fail to turn the hour to our advantage

'The war had made it quite clear that there was no place for small nations in the present day world They could not go single handed They could no doubt exist in a federation of smaller nations There was hardly any room for bigger nations too It was becoming impossible for any country to command an empire spread over the entire world For, to do so, that country must command all naval bases and must rule over important sea routes, otherwise, it might be challenged by other countries The invention of the aeroplane could not be ignored, nor could we ignore the changes it had wrought in the world.

'However mighty a nation might be, it could not command all air bases and sea routes of the world, and so it was impossible for an empire to exist But such empires as were linked

together or federated could exist Hitler succeeded in forming the European countries into a federation Such a federation could exist, but empires like those of Great Britain could not exist It was why just before the surrender of France, Great Britain had proposed to link the two countries together

'The other important thing which had become quite clear was the changing economic structure of the world Great Britain was spending a huge sum of between 15 to 20 crores of rupees a day on the war Nations involved in the war were floating huge loans and borrowing enormous money from other countries How long could they do so? They could hold on for some time by introducing paper money and inflating the currency, but the way the war was proceeding a stage would soon come where things would become impossible

'This aspect of the war was bound to influence economic problems of the world May be it might entirely displace gold and silver out of the currency system of the world What changes would take place could not be forecast But it was quite clear that the present system was bound to go out The revolution which would follow the war would work many changes.

'Perhaps to the common mind the word *Inquilab* (revolution) might connote the idea of freedom from British bondage, and no doubt this was included in it But no *Inquilab* could be a real *Inquilab* if it could not wipe out poverty once for ever What were we to do then? India had been dragged into the war unwillingly and in spite of her protests We could have refused to be dragged into it, and we had every right to do so, but we restrained ourselves

'We were passing through a revolution and every step that we took forward must be steady The question of India's participation in the war had been subjected to prolonged discussions We tolerated this insult for over a year, but we could not tolerate it any longer Gandhi, who was a great man and whose views were also great, did not think it proper to embarrass the British

Government at such a time But our silence was interpreted as weakness

'Attempts were made to aggravate communal matters, and it was asserted that India was not fit for democracy, nay, attempts were made to demolish the edifice of our nationalism. The British thought that if their country was being ruined, they must ruin India too We could not sit silent when an attempt was being made to divide India Thousands had been arrested, and forced subscription was being levied for war. Things had become intolerable

'We did not want to resort to *Satyagraha* All these things came up for consideration before the Congress Working Committee and the All-India Congress Committee, and Gandhi was empowered to lead the country His talks with the Viceroy had failed The time for action had come When the *Satyagraha* would begin, he could not say, but it was only a question of days

'Some asked, what would be the result? The fight for our freedom would also become a part of the world upheaval. Some suggested that the Congress movement would be confined to a chosen few. When the movement started, none knew what form it would take. None knew that the Dandi march of Gandhi would raise a country-wide agitation. This time too, it would not be confined to a few All of us would have to join it in some form or other. At such a juncture a question arose as to what would be the plight of the country if some other country invaded India. This question had taken the form of a threat. Whatever might happen, we were not going to pray to the British to come to our defence. It would be a matter of shame for us They held us in bondage, and even at this hour of peril when their very existence was threatened, they were unwilling to restore freedom to us We would face all the odds even if we perished in the attempt

'It was not easy for any country to step into India unless that country brought the whole world under its sway Japan

might try to invade India, but we should bear it in mind, that the battles that were being fought would not be decided in India They would be decided in the Pacific or in Europe and America However, the fear that another country might enslave us could not daunt us and keep us away from a fight to tear away the shackles of bondage

'Nehru said that he had undertaken his present tour of the eastern districts of the U P to bring this message of the Congress to every door But there was a definite reason why he had selected Gorakhpur first of all He had come to Gorakhpur so many times, because here he could see the most horrible picture of poverty of the Indian masses Nowhere in India were tenants so downtrodden Any one who saw the abject poverty ruling in this district could say that it betrayed the worthlessness of those who were responsible for it and they must be turned out of the country.

'How could those, who raised communal issues, link this question of poverty with communalism Communal organisations of the country wanted to divide India into parts; they wanted to ruin its unity and omit even its name The sacrifices that we made for decades were made for unity and freedom, and for effacing poverty, for removing poverty of the peasants, tenants and the labourers of Gorakhpur The question of India's freedom was related to the conditions of the peasants and labourers, and in no way with a few seats on the Viceroy's council

'Touching upon the agrarian situation in Maharajganj, Nehru said that it had been very annoying to him Thousands of tenants were being ejected out of their holdings He was sorry he could not help them He could not plead their cases in courts He would have certainly advised them to resist the aggression of the police and the zamindars, but at present he did not want to raise any such question But the problem of Maharajganj could not be left aside

'A time would come when the revenue papers would be burnt and the fields of the tenants would be returned to them For

three years the Congress Government in U P laboured after the present Tenancy Act for decreasing rental and for ensuring possession on holdings of those in whose possession they were There were some defects in the Tenancy Act which escaped the notice of its framers and they could not solve the problem of Maharajganj too Had the Congress Government remained in office, those omissions would have been set right. But today the authorities and zamindars were taking advantage of those defects in the law and were heartlessly ejecting tenants out of their holdings This problem of Maharajganj would one day become an all-India issue, and we would see what we could do

'The district was also faced with the sugarcane crisis of the year 1936-37 due to the follies of the mill-owners who raised the price of sugar for harvesting huge profits during the war This too was a baffling problem Then there was the victimisation of the labourers who took part in the last strike, although the mill-owners had promised the collector not to resort to victimisation These were the problems which demanded immediate solution in Gorakhpur and if the Government was anxious they could be easily solved in a way that no party could be put to unjust loss These questions would be placed before the U P Congress Committee and even before Mahatma Gandhi and the All-India Congress Committee when necessary

'Nehru exhorted the audience to muster courage and get ready for the ensuing struggle The days at their disposal were few and during this period they must strengthen the hands of the Congress by becoming primary members and volunteers and bridging their differences He did not know when he was to be pushed behind the bars, but as long as he was free he would strive to utilise every minute of his time He appealed to the people to use khadi which was a national uniform

'In the end he said that with this changing world the country was determined to change its whole appearance, this was no boast, no verbosity, but would be made real

'Nehru spoke for an hour and a half'

TRIAL

Three days after his arrest, Nehru was produced before the district magistrate Mr E de V Moss, and was tried inside the jail, a small tent put up in the jail compound serving as the magistrate's court The case opened with the public prosecutor giving the court three typed sheets containing extracts from the three speeches delivered by the accused at three different places, namely, Deoria, Maharajganj and Laldiggi The prosecutor said that at all the three places, large audiences were present The points the accused drove home in his speeches were that people should be ready to defy a government which did not deserve to exist, they should oppose all kinds of help in a war into which India had been dragged without her consent. The crowds which the accused addressed were composed of uneducated people and the speeches were meant to create disaffection among them and turn them away from the war effort The contention of the prosecution was that Pandit Nehru had committed a prejudicial act within the meaning of Rule 34(6) of the Defence of India Rules Discussing the legal aspect of the prosecution, the prosecutor said that he was not required to prove whether what the accused had said was true or false. Neither was he concerned with his intention, much less would it be necessary for him to go deep into details The Defence of India Rules, it should be remembered, were meant to save people being influenced into preventing war activities

The prosecution then presented their first witness, police sub-inspector Dalsingar Singh, who deposed that he had reported the impugned speeches which he said he took down in shorthand and transcribed into Urdu in long hand These he read out to some people who had heard the speeches and who would be produced to testify to their correctness The reading was done immediately after the speeches had been delivered and the witnesses' signatures were obtained In one case the thumb impression was taken of a witness (Those present and witnessing the trial burst into laughter) The witness added that Nehru in his speeches advocated abolition of foreign rule, compared the

English rule to *Sahukari Raj* (government of financial imperialism) and wanted *Panchayati* (people's) *Raj* in its place. He also preached against co-operation in the war effort

At this stage, the usual questions were put to Nehru, and he said. 'I don't propose to defend myself or take any formal part in this trial This is not with any intention to obstruct the proceedings; it is because I am not particularly interested in these legal proceedings. I have prepared a statement which I wish to read out to you now or at a later stage. After reading it out, I shall hand it over to the court and it need not be recorded by the court in writing'

He added that he would informally help the prosecution in elucidating any points on which it wanted to base its case. Referring to the official reports of his speeches, he remarked that they revealed an extraordinary lack of intelligence or knowledge of shorthand on the part of the reporter. 'They hardly made sense in many places I try always to talk sense.' The speeches he made were often lasting over an hour, and the reporter could not probably keep pace with him, with the result that, when they were transcribed into long-hand, it all became a curious jumble

Alluding to the tone and substance of the speeches, Nehru said that he had always preached independence for India and removal of British rule. 'I am fully committed to this, and I have tried my utmost by speech, by writing and by other activities during the last quarter of a century to bring this about'

He went on to say

'As a matter of fact during the last four weeks, I have deliberately avoided saying many things in regard to the war which I ordinarily would have done because our leader, Mahatma Gandhi, wanted only the person of his choice to say them for the moment In my speeches here and elsewhere, therefore, I laid stress chiefly on the compulsory levies for war-fund and especially from the poor and advised them not to submit to this. Usually however, I have refrained latterly from expressing this opinion because of the orders of my chief'

Nehru then read out distinctly and in measured tones his written statement.

'I have been told that the charge against me is based on the reports of three speeches I delivered in the Gorakhpur district early in October last Copies of these reports, and in one case a translation into English, have been given to me I have read these and I cannot congratulate the persons who were responsible for the reporting These reports, though presumably taken down in shorthand, are scrappy and incomplete, confusing and often making little sense

'I am a lover of words and phrases and try to use them appropriately Whatever my opinions might be, the words I use are meant to express them intelligibly and in ordered sequence. A reader of these reports will find little intelligence or sequence in them, and is likely to obtain an entirely distorted impression of what I actually said

'I make no complaint of this reporting and I do not suggest that deliberate distortions have been made But I do want to make it clear that what I said was in many respects entirely different from what the jumble of words in the reports would lead me to imagine If this is so in the reporting of my speeches, when particular care is taken and the more qualified men are employed, I cease to wonder what happens when the speeches of others are reported by totally unqualified persons, and these are made the basis of charges in courts of law

'It is not my intention to give details of the many errors and mistakes in these reports That would mean re-writing them completely That would waste your time, Sir, and mine, and would serve little purpose I am not here to defend myself, and perhaps what I say in this statement will make your task easier I do not yet know the exact nature of the charge against me I gather that it has something to do with the Defence of India Rules and that it relates to my references to the war and to the attempts being made to compel the people of India to take part in the war effort If that is so, I shall gladly admit the charge It is not necessary to go to garbled reports to find out what I or

other Congressmen say in regard to India and the war The Congress resolutions and statements, carefully and precisely worded, are there for all the world to know By those resolutions and statements I stand and I consider it my duty to take the message of the Congress to the people of India

'As a matter of fact, ever since the Congress came to the conclusion that, in order to give effect to the Congress policy, satyagraha or civil disobedience should be started, I have endeavoured to check myself in my utterances and to avoid what might be termed satyagraha Such was the direction of our Chief, Mahatma Gandhi, who desired that the satyagraha should be confined to particular persons of his choice One such person was selected and he expressed in public utterances the Congress attitude to the war, laying some emphasis on the Congress policy of non-violence It was my good fortune to have been selected to follow him and to give expression to the Congress view-point, with perhaps greater emphasis on the political aspect It had been decided that I should do so, after giving due notice to the authorities, from November 7 onwards, in the district of Allahabad That programme has been varied owing to my arrest and trial, and the opportunity to give frank and full expression to Congress policy with regard to the war has come to me earlier than I anticipated

'If I was chosen, or before me Shri Vinoba Bhave was chosen for this purpose, it was not to give expression to our individual views We were symbols who spoke the mind of India in the name of India, or at any rate of a vast number of the people of India As individuals, we may have counted for little, but as such symbols and representatives of the Indian people, we counted for a great deal. In the name of those people we asserted their right to freedom and to decide for themselves what they should do and what they would not do; we challenged the right of any other authority, by whomsoever constituted, to deprive them of this right and to enforce its will upon them No individual or group of individuals, not deriving authority from the Indian people and not responsible to them in any way, should impose their will upon them and thrust the hundreds of

millions of India, without any reference to them or their representatives, in a mighty war which was none of their seeking It was amazing and full of significance that this should be done in the name of freedom and self-determination and democracy, for which, it was alleged, the war was being waged We were slow in coming to our final conclusions, we hesitated and parleyed, we sought a way out honourable to all the parties concerned We failed and the inevitable conclusion was forced upon us that so far as the British Government or their representatives in India were concerned, we were still looked upon as chattels to do their will and to continue to be exploited in their imperialist structure That was a position which we could never tolerate, whatever the consequences

'There are very few persons in India, I suppose, whether they are Indians or Englishmen, who have for years past so consistently raised their voices against Fascism and Nazism as I have done My whole nature rebelled against them and, on many an occasion, I vehemently criticised the pro-fascist and appeasement policy of the British Government Ever since the invasion of Manchuria and subsequently in Abyssinia, Central Europe, Spain and China, I saw with pain and anguish how country after country was betrayed in the name of this appeasement and the lamps of liberty were being put out I realised that imperialism could only function in this way; it had to appease its rival imperialisms or else its own ideological foundations were weakened. It had to choose between this and liquidating itself in favour of democratic freedom There was no middle way

'So long as appeasement applied to Manchuria, Abyssinia, Czechoslovakia, Spain and Albania, "to far-away countries about which few people had ever heard", as the then Prime Minister of England put it, it did not matter much and was faithfully pursued. But when it came nearer home and threatened the British Empire itself, the clash came and war began

'Again there were two alternatives before the British Government and each government engaged in the war—to continue to function in the old imperialist way or to end this in their own

domains and become the leaders of the urge for freedom and revolutionary change the world over. They chose the former, though they talked still in terms of freedom and self-determination and democracy But their conception of freedom was limited to Europe, and evidently meant freedom to carry on with their empire in the old way Not even peril and disaster have weakened their intention to hold on to their empire and to enforce their will upon subject peoples In India we have had over a year of war-government The people's elected legislatures have been suspended and ignored and a greater and more widespread autocracy prevails here than anywhere else in the world Recent measures have suppressed completely such limited freedom, as the press possessed, to give facts and opinions If this is the prelude to the freedom that is promised us, or to the new order about which so much is said, then we can well imagine what the later stages will be when England emerges as a full-blooded fascist State

'I am convinced that the large majority of the people of England are weary of empire and hunger for a real new order. But we have to deal not with them but with their Government and we have no doubt in our minds as to what that Government aims at With that we have nothing in common and we shall resist it to the uttermost We have therefore decided to be no parties to this imposed war and to declare this to the world. This war has led already to widespread destruction and will lead to even greater horror and misery With those who suffer we sympathise deeply and in all sincerity But unless the war has the revolutionary aim of ending the present order and substituting something based on freedom and co-operation, it will lead to a continuation of wars and violence and uttermost destruction

'That is why we must dissociate ourselves from this war and advise our people to do likewise and not help in any way with money or men That is our bounden duty But even apart from this, the treatment accorded to the Indian people during the past year by the British authorities, the latter's attempts to encourage every disruptive and reactionary tendency, their

forcible realisations of money for the war from even the poor of India, and their repeated affronts to Indian nationalism, are such that we can never forget them or ignore them No self-respecting people can tolerate such behaviour, and the people of India have no intention of tolerating it

'I stand before you, Sir, as an individual being tried for certain offences against the State You are a symbol of that State But I am also something more than an individual—I too am a symbol of Indian nationalism, resolved to break away from the British Empire and achieve the independence of India It is not me that you are seeking to judge and condemn, but rather the hundreds of millions of the people of India, and that is a large task even for a proud empire Perhaps it may be that though I am standing before you on my trial, it is the British Empire itself that is on its trial before the bar of the world There are more powerful forces at work in the world today than courts of law, there are elemental urges for freedom and food and security which are moving vast masses of people and history is being moulded by them The future recorder of this history might well say that in the hour of supreme trial, the Government of Britain and the people of Britain failed because they could not adapt themselves to a changing world He may muse over the fate of empires which have always fallen because of this weakness, and call it destiny Certain causes inevitably produce certain results We know the causes, the results follow inexorably in their train

'It is a small matter what happens to me in this trial or subsequently Individuals count for little, they come and go, as I shall go when my time is up Seven times I have been tried and convicted by British authority in India and many years of my life lie buried within prison walls An eighth time or a ninth, and a few more years, make little difference But it is no small matter what happens to India and her millions of sons and daughters That is the issue before me and that ultimately, is the issue before you, Sir If the British Government imagines that it can continue to exploit them and play about with them against their will, as it has done for so long

in the past, then it is grievously mistaken It has misjudged their present temper and read history in vain.

'I should like to add that I am happy to be tried in Gorakhpur The peasantry of Gorakhpur are the poorest and the most long-suffering in my province I am glad that it was my visit to the Gorakhpur District and my attempt to serve its people that has led to this trial

'I thank you, Sir, for your courtesy'

The Court now proceeded to examine the charges framed under Rule 34(6) of the Defence of India Rules The first of them related to Nehru's Maharajganj speech of October 6, in which it was stated that he used expressions which tended to excite disaffection towards the Crown Representative or the Government established by law in British India, and adversely influenced the conduct of the public in regard to the defence of India or the efficient prosecution of the war—an offence punishable under rule 38(a) read with clause 5 of the same rule

On the magistrate asking what he had to say to this charge, Nehru replied that he did not wish to plead at all, but that it was his particular function and privilege in life to spread disaffection against the Crown Representative in India and the Government established by law at present in British India

The Laldiggi speech was made the basis of the second charge, which stated that the speech tended to undermine public confidence in national credit Nehru again refused to plead Then came the third charge, with the Deoria speech providing the basis for it Once again he returned the same answer

Some discussion followed as to the further progress of the proceedings The public prosecutor reminded the magistrate that under section 256 of the Criminal Procedure Code, the court would have to wait for the "next day" to give the accused an opportunity to cross-examine prosecution witnesses if he wanted to do so The magistrate corrected the prosecutor by saying that the section said only "next hearing" Would it not be all

right, he asked, if he adjourned the hearing for a brief period, and resumed it after some time in the course of the day?

'Why this concession?' Nehru intervened laughingly, and added. 'I do not intend to cross-examine any one. And I am not going to change my mind overnight about the procedure I have already adopted.'

But the proceedings had to be adjourned on the public prosecutor submitting to the court that he had more witnesses to produce, and that he would do so tomorrow. Technicalities and formalities of the law were being carefully observed, and these, in view of the accused's disinclination to plead not guilty, made the magistrate impatient, who asked the prosecutor whether there was no shortcut. 'I am afraid not,' enjoined the public prosecutor, and the formalities continued for another day.

At the beginning of the next day's hearing, the magistrate made a formal inquiry of Nehru whether he wanted to cross-examine the prosecution witnesses, and the latter replied 'No'. But he protested again about the report of his speeches. He said that he always used popular language when he addressed popular gatherings. For instance, he was fond of using the phrase *panchayati raj* to mean democratic government. Similarly, *sahukari raj*, by which he meant finance imperialism. The phrase had nothing to do with *sahukars* or money-lenders. Again, *bedakhli* was another word which he often used. It meant ejectment, which the *kisans* easily understood as a common agrarian and social phenomenon of every-day experience. To symbolise sending the British out of India, he used that popular word—ejectment of the British. Referring again to *satyagraha*, he emphasised that he had recently stopped mentioning it as under Mahatma Gandhi's instructions his nominee was to do it, and he would have referred to it on a later occasion, if he had not been arrested.

Immediately after Nehru had finished, the prosecution submitted to the court that it had six witnesses to produce. The first to appear was Faiyaz Hussain, who said in his examination-

in-chief, that he heard the accused's speech at Laldiggi and saw it being taken down by a police inspector, who read it out to him and to another subsequently He found the report to be correct, and signed it The accused mentioned war in his speech and said that it was a war which did not concern India whether Britain won or lost This Government could not long remain in the country To what extent could Britain borrow for the war? How long could she do so?

Ramagya Das, the next witness, repeating what the first had said, added that the audience was told by Nehru not to give men or money for the war, and that the speech had a considerable effect on the people

The third witness also repeated what the first had said, but his evidence related to the Deoria speech The other three witnesses, coming from Pratapgarh, Allahabad and Rae Bareili, deposed that they had taken down the speeches Nehru made on different dates in these districts, and that they were in the same strain as those forming the subject-matter of the charges at the present trial The public prosecutor explained to the court that the purpose of summoning evidence about the speeches not impugned in the present case was to show the general tenor of the accused's anti-war speeches

Only one formality now remained, and that was the public prosecutor's address to the court He began by explaining the general aim of the Defence of India Rules In his opinion, the rules were meant to prevent efforts and propaganda tampering with the loyalty of the citizens He thought that the safety of India was bound up with the safety of Britain, whose war, therefore, was also India's It was, therefore, necessary to stop speech-making of the wrong kind To say that the people of India should not help Britain was an offence under the rules The speeches of Nehru in the various districts of the province, addressed mostly to villagers, had the tendency stated above He wanted to prepare and organise the people for mass satyagraha when the time came for it That was the object of his recent tour His speeches had affected adversely the efficient prosecu-

tion of the war and all the time he knew that his utterances would take him soon to jail

On the reporting of the speeches the prosecutor quoted a Madras High Court ruling to show that even if a report was nearly accurate though not absolutely, it could be enough to form the basis of a conviction The Allahabad High Court had also held that if a report represented the purport of a speech it could be considered by a court to be reliable and useful It would not be enough for the defence to attack a phrase here and there as inaccurate A speech must be taken together and its meaning clearly understood Finally, it was not necessary under the present law for the prosecution to produce whole reports of the speeches

The prosecutor maintained that the evidence he had produced would easily prove that Nehru had actually excited disaffection wherever he spoke His written statement clearly admitted that his views were to oppose the war effort Consent was not found to prove intention, it was enough if he proved the general effect of the speeches Rule 34 was a special measure and was therefore to be distinguished from section 124A of the Indian Penal Code where intention also had to be proved

The prosecutor dilated for a while on the relevancy of the reports of the Allahabad, Pratapgarh and Rae Bareili speeches produced in the present trial, citing a ruling of the Allahabad High Court to show that a background could be provided for a speech or writing when made the basis of prosecution

The general charge against the accused, the prosecutor summed up, was that he had persuaded people to withhold support for the war, and the charge had been admitted by him

The trial closed with a brief reply by Nehru, to a question of the magistrate He said that the prosecution had taken far too much trouble in proving their case His own written statement had rendered the case for the prosecution easy It was not a question of words or facts, though the Gorakhpur speeches had rubbed him up the wrong way They were as inaccurate as

they were inartistically done He had been prosecuted before for speeches made by him He had found some of them quite accurate The Gorakhpur speeches of his were, however, the worst from the point of view of reporting as they offended his artistic and literary sense, and very often made no meaning If the prosecution wanted, he could have produced an excellent model of a speech for it.

There was no answer from the court, and it adjourned again to prepare the judgment, which was delivered two days later

JUDGMENT

The judgment said

'Pandit Jawaharlal Nehru stands charged with three offences committed by him in the course of three speeches which he made in three different places in the Gorakhpur District, namely, at Deoria, Laldiggi in Gorakhpur city and Maharajganj on October 6 and 7, 1940 These offences consisted of the commission of prejudicial acts under Rule 38(1) of the Defence of India Rules which reads as follows

> No person shall without lawful authority or excuse do any prejudicial act

'The definition of a prejudicial act is contained in Rule 34(6). The offences committed by him come generally under sub-clauses 6(d), (e), (j) and (k) and he has been so charged in the three charges drawn up against him

'The charges contain in detail the ingredients of the various prejudicial acts committed by him under sub-clauses 6(d), (e), (j) and (k) It will be sufficient here if I describe briefly the contents of the various clauses Rule 4 clause (6)(d) requires that the acts committed should be likely to prejudice recruiting Clause (e) refers to acts likely to create disaffection towards Government established by law in British India, and clause (j) to undermine confidence in the national credit or loans Finally under (k) the acts should be such as to influence the public in a manner likely to be prejudicial to the defence of India, or to the efficient prosecution of the war

'The charge about undermining public confidence more particularly refers to the expressions used by the accused in his speech made at Laldiggi in Gorakhpur City, and a special reference has been made in the charge sheet for that speech

'Counsel for the Crown pointed out in the beginning of his address that the object of rule 38(1)(a) of the Defence of India Rules was not to fetter the right of every individual Indian to hold whatever views he liked, but what the Act did penalize was the attempt to tamper with the loyalty of the people and to cause disaffection There is no doubt about it that this view is correct and the object of the rule is not, for instance, to levy forcible contributions from the people or to force them to give recruits for the Army, but to stop any propaganda likely to affect the free will of the people in the matter of making these contributions or joining the Army

'Counsel for the Crown went on to say that there will be some in India who are opposed to giving any assistance to the British Government in this war, but the vast majority think that the safety of India is linked with the safety of Great Britain and that this war is not only Britain's war but India's also It seems right that in war time those who think differently from the accused should be protected from being influenced by speeches or by other means After making these preliminary observations I will proceed to deal with the facts of the present case

'The accused on October 6 and 7 made three speeches in the Gorakhpur district on which he is being prosecuted The original shorthand notes and their transcriptions have been proved in evidence

'One of the speeches was made at Maharajganj Certain extracts have been made from all three speeches and I quote examples from the Maharajganj speech showing how he offended in prejudicing recruiting, exciting disaffection towards Government, undermining public confidence and influencing the public in a manner likely to be prejudicial to the efficient prosecution of the war As an example of expressions prejudicial to recruiting

I quote one remark that he made which was: "If the Germans attacked India or the war came to India then he would have asked Indians to fight, but as they (meaning the Government) did not listen to them and declared that all India should take part in the war and contribute towards war funds and also to sacrifice their men, he thought that this was highly improper" He also said that India had been dragged into the war and that her money and men had been taken from it

'As an example of exciting disaffection towards Government I quote the following remarks made by him —

'"The British Government was a *Sahukari Raj* and it had to be destroyed The *Sahukari Raj* had ruined this country" I note here that he did not say that the form of government had to be changed but that the present Government had to be removed He also said that outsiders should not rule in this country.

'The whole trend of his speech will show that it was aimed at influencing the conduct and attitude of the public in a manner likely to be prejudicial to the defence of India, or the efficient prosecution of the war

'There is corroboration for this view of the speech in what he says in his written statement At the bottom of page three he says that it was monstrous that any individual or group of individuals deriving no authority from the Indian people should enforce their will upon them and thrust the hundreds of millions of India into a mighty war which was none of their seeking He further went on to say that the inevitable conclusion was forced upon them that so far as the British Government or their representatives in India were concerned they still looked upon them as chattels to do their will and to continue to be exploited in their imperialist struggle Furthermore, the accused had admitted in his statement after charge was read out to him that it was his particular function and privilege in life to spread disaffection against the Crown representative in India and the Government established by law in India This in itself is sufficient for his conviction

'Ramagya, a prosecution witness, states that what he understood the accused to say was that the contributions which were being asked for, and the young men, recruits, should not be supplied He also said that the accused said that the *Angraizi Raj* was *Sahukari Raj* and should be ended.

'The accused has refused to plead and said that he would not take any part in the proceedings He filed a written statement and did not cross-examine any of the prosecution witnesses He did not offer any defence He did not say what he had actually said in his speech.

'There is no doubt at all that the tenor of all the speeches was that the people should be dissuaded from giving assistance for the efficient prosecution of the war

'In order to clear up any doubt about the intention of the accused the prosecution has produced seven more speeches reported by different reporters in other districts These speeches with slight variations, which the accused seemed to think were necessary to suit the needs of the different places, are almost identical with the speeches made in Gorakhpur which are the subject of the charges made against him As an example, I may point to the remarks made in these speeches that the Government should be ejected and that the British rule should be destroyed This would lend further support to the fact that the speeches which are the subject matters of the charge are substantially correct.

'I may say therefore once more that I am fully satisfied that the three speeches as reported, which are the subject matter of the charges are substantially accurate and represent what the accused said As regards the Maharajganj speech in particular, I must here find that the charge has been fully established

'I will now deal with the Laldiggi speech He made the following remarks prejudicial to recruiting, "I do not want that we should take part in the war. We were not going to pray to the British Government to come to our defence Empires like Great Britain cannot exist" The latter remarks also under-

mine public confidence in Government These remarks also, naturally, are likely to excite disaffection towards the Government

'As regards undermining public confidence in the national credit, I quote the remark made by him "Where would the Government be able to get enough money to repay the loans issued by it?"

'There were many other expressions in the speech which constituted offences under the clauses as previously mentioned by me, but it is sufficient to quote the remarks mentioned by me above As regards this speech also the charge has been fully proved

'The Deoria speech was made by the accused on October 7. As examples of expressions likely to excite disaffection or to influence the efficient prosecution of war I quote the following He said that the British Government could not remain here The revolution that he wanted was that the British Government should be turned out The Government should be ejected from India As examples of expressions prejudicing recruiting I quote the remarks made to the effect that the Government without consulting Indians had proclaimed that India was also in the war against Germany He said, "Why should we or our men help them or make contributions? If we take part in this war we shall weaken our struggle for Swaraj No one need make any contributions"

'In conclusion, these speeches clearly show that he tried every where to dissuade the people from giving any help to the British Government in the war His written statement clearly shows that he holds strong views about recruitment for the army and is absolutely against it He admits that he is out to excite disaffection towards the Crown representatives or the Government I am satisfied that he gave expression to these views, and he said so in places where his audiences were mostly uneducated villagers and therefore highly inflammable material which was likely to act upon his advice and conduct itself in a

manner likely to be prejudicial to the defence of British India and the efficient prosecution of the war

'It is necessary to stop such propaganda as carried out by people in the position of the accused I think therefore that this is a case where a deterrent sentence should be passed I may note here that each of the three offences committed by the accused is punishable with a term of five years' rigorous imprisonment

'I, therefore, find the accused guilty on all the three charges and convict and sentence him under rule 38(1)(a) read with clause (5) of the Defence of India Rules to rigorous imprisonment for one year and four months on each count, the sentences to run consecutively making a total of four years' rigorous imprisonment.'

9

Eve of The 'Quit India' Movement

INDIVIDUAL satyagraha declined by the beginning of the winter of 1941, and the Government of India announced early in December that it had decided to release 'those civil disobedience prisoners whose offences have been formal or symbolic in character.' In pursuance of this policy, the members of the Congress Working Committee were released, and Nehru, being one of them, also came out of prison on December 3. Government felt assured of the return of normalcy when, notwithstanding the fact that the movement had not been withdrawn, Gandhi advised the released men not to re-offer satyagraha for the time being. A little later, the entire movement, now more than a year old, was declared null and void on a technical point raised by Rajagopalachari. Gandhi had interpreted the resolution authorising him to conduct the individual satyagraha to mean that the Congress was, in principle, opposed to participation in the war—in all wars—on the ground of non-violence. He would not have assumed the leadership of the struggle on any other term. The Working Committee, meeting on December 23, held that Gandhi's interpretation was not borne out by the terms of the resolution. Gandhi, thereupon, asked to be relieved of the responsibility the resolution laid on him, and the committee, regretfully acceding to his request, assured him that the policy of non-violence still held the field, and so did the resolution. The All-India Congress Committee did not ratify the new position which re-thinking by the Working Committee had pro-

duced, but Gandhi virtually ended the movement by telling the A-ICC 'I do not want to send workers to jail nowadays when their services can be better availed of in allaying panic'

Meanwhile, Japan entered the war, and India's nearness to the war theatre in the east impelled once again in London the need of conciliating Indian leaders with a view to securing their co-operation in the war effort There were prolonged parleys, but they foundered on the Viceroy's insistence of retaining the substance of power in his own hands and on the Congress demand to establish at once a truly national government with full powers transferred to it and with the Viceroy acting as a constitutional head The renewed negotiations and their failure came as a challenge to the Congress, and the challenge grew ever more serious as the war aggravated the misery of the masses

The Government was desperately preparing to fight Japan on Indian soil The scorched-earth policy made people of the sea coast, especially of Bengal and Orissa, destitute Thousands were driven out of their homes and fields and deprived of their means of livelihood India was a veritable corpse, said Gandhi—a heavy weight on the shoulders of the Allies, and that the only solution was the ending of British rule As the leader of the Congress and the country, he asked the British to quit India, the entire country, he said, should make this demand

On July 14, the Working Committee discussed with him the significance and implications of his new move, and adopted a resolution saying 'Should, however, this appeal fail, the Congress will reluctantly be compelled to utilise all the non-violent strength it might have gathered since 1920 Such a widespread struggle would inevitably be under the leadership of Gandhiji.'

The Working Committee resolution was ratified by the All-India Congress Committee on August 8, 1942, which said that 'it is no longer justified in holding the nation back from endeavouring to assert its will against an imperialist and autho-

ritarian government which dominates over it and prevents it from functioning in its own interest and in the interest of humanity'

Gandhi, who was to conduct what he called the greatest movement of his life, addressed the committee for 140 minutes. He said in conclusion · 'I want freedom immediately, this very night, before dawn, if it can be had Every one of you should, from this moment onwards, consider yourself a free man or woman, and act as if you are free and are no longer under the heel of this imperialism It is not a make-believe that I am suggesting to you It is the very essence of freedom The bond of the slave is snapped the moment he considers himself to be a free being Here is a *mantra*, a short one, that I give you You may imprint it on your hearts and let every breath of yours give expression to it The *mantra* is We shall "Do or Die" We shall either free India, or die in the attempt, we shall not live to see the perpetuation of our slavery'

His mass struggle was to be preceded by another appeal to the Viceroy, another negotiation with him, which, he said, would take two or three weeks But in the early morning of August 9, a few hours after the A-ICC session was over, Gandhi, Nehru and all the members of the Working Committee were arrested and taken to an unknown destination, for detention without trial

For the ninth time, and this was the last, Nehru passed 1,040 days in prison. In all, 3,262 days of the life of the Prime Minister lie buried in different prisons—Lucknow, Nabha, Naini (Allahabad), Bareilly, Dehra Dun, Calcutta, Almora, Gorakhpur, and Ahmednagar Fort The first imprisonment lasted 87 days, from December 6, 1921 to March 2, 1922, the second 265 days, from May 11, 1922 to January 31, 1923, the third 12 days, from September 22, 1923 to October 4, 1923, the fourth 180 days, from April 14, 1930 to October 11, 1930, the fifth 99 days, from October 19, 1930 to January 26, 1931, the

sixth 612 days, from December 26, 1931 to August 30, 1933, the seventh 569 days, from February 12, 1934 to September 4, 1935, the eighth 398 days, from October 31, 1940 to December 3, 1941, and the ninth 1,040 days from August 9, 1942 to June 15, 1945

APPENDIX A

Translation of the handbill (in Hindi) which formed a basis of the first prosecution of Nehru in December 1921

BANDE MATARAM

MAHATMA GANDHI'S ORDER

The people of Lucknow are aware that the Prince of Wales has arrived in India against the clearly-expressed wish of the country He will visit Lucknow on the 9th of December in spite of the unequivocal declaration by the people of Lucknow that they would not participate in the reception proposed to be accorded to him or in any entertainment or procession arranged in his honour What is our duty at a time when our national sentiments are being rigorously crushed, and our voice is being ignored?

OUR DUTY IS

(1) to observe *hartal* in the city with peace and perseverance;

(2) to take no part in any meeting, procession, reception, firework, dance, or any other entertainment;

(3) to desert the streets on which the Prince is to pass, so that our presence may not impart the grace of reception to him,

(4) not to crowd and make noise on other streets and road-crossings, but, on the contrary, to stay indoors, and with peace and self-control, pray to God for the success of the *hartal*

It is our national and religious duty to act according to these instructions Those who will not do so, will be considered guilty in the eyes of God and the country Only by peace and

self-control can we defend our national honour Let not the prestige of the country suffer at our own hands May God give us strength to tread on the path of righteousness!

MOHANLAL SAKSENA,
Secretary, City Congress Committee,
Lucknow

APPENDIX B

Copy of the official report of Nehru's speech, delivered at Allahabad on October 12, 1930, which was used as the basis for the fifth prosecution (As Nehru said at the trial, this is not a wholly accurate version)

Brothers and sisters

You, inhabitants of Allahabad, I want to examine you Sitting on the other side of the Jamuna, I have been hearing that there is great excitement, enthusiasm at Allahabad, and that huge processions are taken out here, and there are various other such activities But seeing the procession of today, I realize what you have not accomplished during these six months I want to see whether the citizens of Allahabad have grown somewhat taller or not, their waist is straight or not It transpired from those big things which came on the other side of the Jamuna that Swaraj has nearly been achieved at Allahabad, and this delighted me much That is why I wish to see you more carefully Today you have gathered here, taken out a long procession to welcome me, garlanded me with many a wreath I certainly thank you for that But the fact is that I was taking rest, as you know, at a place (jail) not far from you I am not joking or saying anything useless It is true that a man like myself and others, whether they wish or not, get rest there, and to welcome him is to shame him The fact is that those workers who are outside, have to undergo difficulties and hardships Those who are inside the prison cannot stand in comparison with those who are outside and have to suffer *lathi* blows and other hardships The Commissioner of Calcutta complained that those who go to jail escape beatings Therefore he ventured and did his best to remove this You must be knowing sufficiently well what happened in some of the jails Bearing all this in mind, if you extend any tribute to me it is to ashame me I had had rest there, did many other good things,

produced a sufficient quantity of yarn from *charkha* and did not experience any particular difficulty

If you have to say to any one, what you have done, it is to me, tell me, how you have faced your enemies and how you will do this in future My brother Govind rejoiced much today but this is not the time for us to rejoice We have to do something You know what has been done in the country till now and what is being done The truth is that after my release from the jail I should bow down my head in respect to those brave men who lost their lives You know this began from Peshawar, and it led the way Hundreds of men laid down their lives there Possibly many of you have read the report published in this connection, that is the Peshawar Committee report by the Congress Those who have not read it can do so You will have a Hindi version of it also before long You may be knowing that the Government of our enemies have declared it illegal They may do so When the Congress has declared that the British Government in India is unlawful, it would not be surprising if they now or after some time declare everything in our possession to be illegal They have declared this book also illegal, though it is obtainable and can always be obtained in English, Hindi and Urdu

So much about Peshawar But what happened at Sholapur, you know better than I do, because it was with difficulty that I got news But think to what an extent the happenings in the country and your own provinces have affected you I, who was in jail, know how these happenings affected us I know how we felt proud of them and how our hearts were filled with enthusiasm By this we estimate their heroism, particularly of women, displayed in the country The incident of Peshawar is known to us, and even today some of us relate it to you

Now the question is what do the Muslims want? It is often said that the Congress does not accept all their demands How many of you present here can raise any objection to their demands after the happenings at Peshawar? Remember, how bravely these people of the frontier have shown to your country

and province that they can be counted the bravest of all the people in India In these circumstances, I wish to tell you plainly as President of the Congress that as far as I am concerned there is hardly any one in the Congress, who, seeing their bravery and services, can refuse their demands We will recognize the demands, without any discussion, of all those who are participating in this struggle Your country, its every community and all the people, young or old, have advanced the cause of India and its independence

Go and see what is going on in Bombay and the Punjab Astonishing and wonderful incidents have come to my knowledge, especially at Bombay The reason why I want to draw your attention, particularly towards Bombay, is that the part played by Bombay in this movement is but a specimen for the whole country You know that at Bombay, rich and poor, Hindus and Muslims, took part in this movement, in large numbers You know that the Parsees, who were considered to be half-English and always sided with them, are participating now, with their women, in the movement and suffering *lathi* blows in our meetings In the same way take Jews and Christians It is a blessing for India what each community at Bombay has done Now, who can doubt the result of this struggle for independence? How am I to enumerate all these places one by one? I can only say that something wonderful has happened at Bombay

The Congress is the greatest representative body in our country It includes all the communities which are not co-operating with the Government Pandit Govind Malaviya and other great leaders represent the Congress You are the Congress, and all those who long for independence are the Congress I am proud of this that you have appointed me President and have allotted me a high place and honoured me I am not proud that I have become abler than before, but as President I represent India and can say that all those who are participating in the struggle for freedom are ready to jump into the fire

To be plain to you, I wish to say that at present there are two flags in our country One is the Union Jack, which is ruling over us, and the other is the flag of Free India Everybody has to see and decide to which flag he should belong It is impossible for one to be neutral or to be on both the sides When two countries are at war with one another, it is not proper for the people of one country to be ambassadors and carry on peace negotiations You know that some of our countrymen are crossing the sea now They are going to England with a view to discuss and determine the future constitution, slavery or freedom, for India I have no right to say anything against anybody However, I wish to express my thoughts to you They, who have gone there including some members of your city, have gone to represent you But can you say that they ever consulted you or appeared before you? You know that a grim struggle for independence is going on in the country All the people of the country, young and old, are fighting for freedom, and wish to throw off the English Government from this country See what we are doing in this struggle for independence, and what steps we are taking for social reconstruction

See how reformed our women have become They have thrown away the *purdah* There are thousands of such other things What our women have done during the moment could not have been achieved after an effort of several years They are participating in the movement Even small children have formed "Banar Senas" and are working (in the interest of the country) I am greatly delighted to see them You see what each and every one of us is doing The women have thrown off their veils and have come into the battlefield The sign of success and progress of the country is that people should do such things Those who were uptill now behind the *purdah*, who did not do anything for the country, nor attended our meetings, have gone now to represent us They are negotiating with the enemies of our country Those who are going to represent us have been selected and appointed by our enemies. They are going to negotiate with our enemies This is what is going on nowadays Is there any man among you wishing to

liberate his country, who can accept the representatives appointed and selected by his opponents to represent his country? Is there any man who will accept such representatives, who never consulted you, never attended our meetings and never did anything beneficial for the country? If they have got any right to represent us it is essential for them to attract us and the attention of the public How quietly they have left Bombay? Let them go We have no objection, why should we have any? If they wish to go to England, they may do so I want to make only one request to them, and that is that it would be much better if they settled down there permanently

In this connection, Lord Irwin who declares himself as the Lord of this country, has delivered a lengthy speech and every third or fourth day his lengthy articles appear before us. Yesterday, the day of my release, was an auspicious day, because on that day a new Ordinance was issued (by him) You must have heard that it is a wonderful Ordinance Perhaps there is no country which is likely to frame a law of this kind and in this manner By one stroke of the pen, he has decided that the Government can take possession of any property, or property belonging to any association, whether it is house, money or other property They can just go and take possession of it In this way they will take possession of Swaraj Bhawan and Congress office It was an auspicious day because the issuing of the Ordinance has a meaning The meaning is that the Ordinances issued up to this time were not enough Their fear, their worry, and their disturbed state of mind is increasing Therefore they are trying to have new arms in order that somehow they may be able to fight our country They have not been able to fight us with the Ordinances already issued So now the ninth one has been issued, and the tenth and the eleventh will soon be out We are all glad that the strength of our country is increasing

The Viceroy delivered a speech a few days ago It was a strange speech I was much comforted upon reading it It is a general rule that a man is comforted when he sees that this enemy is worried. The speech said from beginning to end that the

Congress had done this, the Congress had done that He complained against the Congress, and said that it was following a wrong path

Let me refer to the Viceroy's speech, although we are not specially concerned with it I will tell you of two or three things he spoke about He has said that the Congress is willing to make peace if he assures it of his own help I was much surprised upon hearing and reading this If the Congress cannot bear anything it is that it should make any such request either to the Viceroy or to his masters in England It has no right to do so It has no secret affairs It is not my, Mahatmaji's, Pandit Motilal Nehru's or some one else's affairs It is your own affair and the affair of the peasants, the merchants, and all other people of your country None of us has the right to say anything, howsoever insignificant, on his own behalf If anything is decided, it will only be done after the people of the country have heard and approved of it after consideration Otherwise nothing can be done The other thing is that we all have enough experience of the promise made by the Viceroy of India and other important Englishmen and officials We have enough experience of promises made but never fulfilled After this assertion of the Viceroy that his assurance to the Congress will make it give up the war was surprising to me when I read it

Therefore, what can I say but that those who go to him and give information to him and those who act as his spies are seriously deceiving him, and deceived by them he is worried He gets very little information about the condition of the people of this country. He is deceived and made to worry by the information given by our own countrymen It is not hidden from him what the Congress is He knows everything and yet he allows himself to be deceived Does he not know what is happening in the country, what highhandedness is being practised here? Still he is misled by the informers and does not try to remove them

It is surprising that he has accused the Congress of "Secret diplomacy". This has been said of Congress which has Mahatma

Gandhi in it Pandit Motilal Nehru had said at the very beginning when he went to Bombay You know and you appreciate how much work he had to do in Bombay and how little time he could spare He went there as President of the Congress and as such was very busy there Still some people spoke to him about it, but he said plainly that he could do nothing about it and that if they brought any message from the Viceroy, it should be taken to Mahatma Gandhi, for he himself could decide nothing about it And Mahatmaji also could do nothing But, he said, he was prepared to be a messenger and if the Viceroy was willing to make a compromise, he was prepared to go to Mahatma Gandhi If Mahatmaji accepted it and if the Congress accepted it, and full opportunity was offered to place it before the country and find out its opinion about it, then only, he said, he could make a reply The fact is that when Sapru and Jayakar first came to Nainital what they were told and what was given to them in writing was that if the Viceroy gave a verbal or private assurance, it could not be accepted He should give this assurance in writing on behalf of his Government or accept our conditions. Remember that the Congress can never accept anything verbal or secret We will give them our conditions in writing and whatever conditions he puts forth after consultation with his Government should be binding upon the British nation. I do not want to say anything more What is done is done But this much I certainly want to say that the Viceroy has said that some people have informed him that all this tall talk of the Congress was meant to deceive the people and in fact we were prepared to accept something less How can we be responsible for it? He is told what it is natural for these people, whom he appoints for it, to tell him We do not want to hold ourselves responsible

I want to put one thing before the British nation, and that is that they should consider the work of the Congress for the last two years from the Calcutta Congress to the Madras Congress Let them consider the resolutions of the Calcutta Congress specially Whatever the Congress had done it did after much thinking and reflection Let them show us anything which we

have given up This is not a mere extravagant verbal assertion Whatever the Congress has said, it has said it after much reflection and then acted upon it In this way it has gone forward step by step Can His Excellency Lord Irwin or any one else tell us of any lie, told by the Congress or of any occasion on which it has gone back upon what is said ? It has advanced step by step from the decisions arrived at at Calcutta to those arrived at at Lahore

On the 26th of January, you took a great vow in this very city as well as in many other places in the country and, one and a half or two months after that you started this great war After this, whatever took place in connection with the salt campaign is well known to you What is it that the Congress has not done There is nothing surprising in the assertion that we indulge in tall talk Every one can talk extravagantly, but it must be acted upon Think of the leaders of the country There is Mahatma Gandhi He never says a vain thing upon which he cannot act Whatever the Congress has said uptil now it has tried to act up to it In future also it will do the same

Therefore, Lord Irwin and his associates as well as their masters in England should understand that we speak on behalf of the Congress when we say that they should remember that India cannot retrace the step she has taken Our brothers may go to jail, may be beaten with *lathis* or shot with bullets, they may have to leave their children to go to jail in their thousands, and all that is happening in the land may continue We will bear and welcome it. But why is it that we bear all this ? Is it only for the sake of making a bargain ? It is worth considering why all this is being done Lord Irwin should appreciate it and think over it Had he appreciated and considered all this he would not have said what he has said But he should fully understand that now this country is resolved and it is not possible that it would fail to carry out its resolution And it is impossible that the country should rest until it has won freedom or achieved what it is fighting for It is not possible to suppress it now It is impossible that by inventing new laws and declaring Martial law, they could suppress it They must understand,

and they probably do understand, that the country cannot be suppressed now About fifty thousand (persons) have gone to jail uptil now. They are beaten with *lathis* The information received in the Congress office uptil now shows that forty or fifty thousand of our brothers are in jail.

Brothers and sisters, you should all remember this. It is not necessary to mention it Why have the people put up with *lathi* blows? Do they think that what happened at Bombay, Sholapur and Peshawar was a joke and a child's play? Considering all this, it cannot be that some brothers should go to the London Conference and we should obey them

In connection with violence, Lord Irwin has said something about me in his speech He has taken a few words from my presidental address at the Lahore Congress, and said in his speech that this is the kind of foolish talk in which the Congress people indulge Mahatma Gandhi has decided that non-violence is a great religious principle, we all believe in it There are many people who think that non-violence is a good thing and yet violence will make their work easier But the fact is that after much consideration we have arrived at the conclusion that the best way of achieving independence for the country is that of non-violence This is the method we have adopted and like Mahatma Gandhi we believe it to be our religious duty After consideration, we think it right to follow this path But if the Congress and the country decide at some period to adopt violence, who can prevent them?

In my opinion if there is any great sin for any country or nation, it is that it should continue in slavery I think, then, it is proper for it to get rid of slavery through violence But we are convinced that there is another way and it is better to follow it The fact is that after six months of experience, I wrote to Mahatmaji, in connection with the visit of Dr Sapru and Jayakar, that my doubts had been removed and that I was convinced that no arms could stand the armament of non-violence That is why, India has taken up this weapon and brought it before the world I have more faith in it than I had before.

I say that those who are against this should think over this carefully What the Governor-General says is not right There is a great deal of difference between saying and doing. He knows that we, Congressmen, have resolved to follow the non-violent path after great deliberation, and shall stick to it The country honours Bhagat Singh because he is brave and mounted the gallows Bravery will make us lift our heads high and feel proud of our country which has produced such heroes as can face death on the gallows

The Viceroy talks of violence and non-violence I ask the Viceroy whether he would ask his countrymen to suffer peacefully if the Germans or the Russians attack his country. Will he advice his countrymen to bear everything silently and face it peacefully and non-violently? Or will he ask them to unsheath their sword, take up their guns, face their enemies, and fight to the finish? If he will say this (the latter thing) to his countrymen, what right has he to say (whether) people of this country are violent or non-violent (Only) Mahatma Gandhi can say whether what we do is right or wrong Lord Irwin has no right to say this

I have said this in connection with the Sapru-Jayakar pourparleys and hope that there will be no misunderstanding I have just come out of jail Only one day has passed I have no right to advise you. If the question is put to me what programmes have we got (I will say), there is so much work which you can do You will remember that you were asked to do such important work like boycott of foreign cloth and other foreign goods, picketing of liquor shops, and breaking of the salt law. You know all that is important You know this, the country knows it Not the slightest change will be made in this programme

I have just come to know that the cloth merchants of this city and of other places have done much in this connection I praise and thank them for their help in this struggle and for the losses they bore At the same time I wish to tell them plainly that in future they will not be allowed to sell foreign cloth and

we will ask them to bear the losses done uptil now You should make it quite impossible for foreign goods or foreign cloth to sell here There can be no compromise on this question, happen what may I say this clearly that foreign cloth should be completely boycotted, and the same is true of liquor I have already told you about salt You have sufficiently violated the Salt Law. Now it is not necessary to take out processions, manufacture salt in houses and villages, and that too openly

This is an old story What I wish to say to you is, and this is the talk of the day, that if it would be deemed necessary, the taxes would not be paid Payment of taxes has stopped in certain parts of India Payment has been stopped in Gujarat, Bihar and Bengal Payments of certain particular taxes such as *Chaukidari* has been stopped The same is true of several other places I think your province should also consider this question in due time, and do whatever is decided This great show, this struggle for independence in which thirty-three crores of people of India are participating has taken a new turn The second act of this story begins In the first part (act) you did wonders, but the time has come that you should perform still greater wonders. Every village, mohalla (locality), and city should see and make endeavours that work is carried out in connection with this struggle for independence You cannot have this from *Vakils*. Dominion status is not being accepted (Some words could not be heard and noted down on account of noise) This advice cannot be had from *Vakils* To have control over the Government of our country and to manage it in accordance with our wishes depends upon our efforts and endeavours This means that we should stop English people from making profits by causing losses to our country, and enable our country to make as much profit as it can That is to say, taxes should not be paid to them, that the help of their police and military should not be requisitioned, and that people should themselves make arrangements for the security of their villages and cities People who create a disturbance intentionally should be prevented from doing so You should take the management of your cities and villages in your own hands In connection with the no-tax

campaign, you should bear in your mind that we do not include municipal taxes in it These are not the taxes which we pay to the Government I have placed before you the affairs concerning taxes, and this is the programme

You have given me a cordial welcome You have held a meeting in honour of my release It is just possible that there might be a meeting in honour of my departure Today matters have come to such a pass that it is difficult to say about anybody how long he is going to remain out of jail It does not matter whether one is out of jail or inside it, a sufficient number of the people is still in jails However, you have read in the papers that a new Ordinance has been issued You must have come across in the papers that the Benares Congress Committee has been declared unlawful It is below the dignity of Allahabad that the Congress Committee of this place is still free from that Ordinance This clearly shows that Benares has done better (than Allahabad) and therefore you have got to do your work with more enthusiasm

What more advice can I give you? Whatever I wanted to tell you I have done You will do sufficient work and its burden rests on you Some of our brothers, who are cloth merchants, feel that they are incurring loss But the question at issue is that whatever is being done is for the uplift of their people and betterment of their country and those who have suffered a great deal If the country had decided in favour of a war with swords and guns, imagine the sufferings you might have had to undergo Many persons would have been killed At this time the sufferings and troubles of our struggle are nothing in comparison with what they might have been Those who have studied history must be knowing that many such incidents have happened When Holland, a very small country, was attacked by its enemy, it cut the Dykes which the inhabitants of that country had constructed to guard their country against inundation and let open the sluice gates and destroyed their own country Russia also did the same Napoleon, the great general and the king of France, who had struck terror in all the Euro-

pean countries, once invaded the oldest city of Russia with all his mighty forces The Russians set fire to their oldest city (Moscow) which was reduced to ashes And the result was that they could not find any place of shelter, and had to retreat, but before they could get out of the country nearly the whole army was destroyed (by cold and hunger)

This is how people fight for freedom and make different kinds of sacrifices We shall also have to do the same to achieve success I hope you will lighten our burden, and you will attain Swaraj soon provided you continue to work in the same way

I thank you for your patient hearing I am going to Mussoorie and will return after two or three days

APPENDIX C

The report of the proceedings of the Albert Hall public meeting of January 17, 1934, as published in the *Amrita Bazar Patrika,* dated January 18

A public meeting of the citizens of Calcutta was held on Wednesday evening at the Albert Hall to protest against the incidents which are alleged to have taken place in connection with the route marches of troops in the district of Midnapore

Maulvi Fuzlul Haque presided

The President, in the course of his speech, said that he had the fullest sympathy with the people of Midnapore He had particularly come to this meeting to say that the members of the Hindu community should not think that they were isolated in this protest and assured that the Moslem community would certainly stand by their side

Mr J C Gupta said that such meetings were necessary because the men of Midnapore would know that the people of other places in the country sympathised with them

Mr Pramathanath Banerjee then read some letters which he had received from Midnapore in this connection

Pandit Jawaharlal Nehru, in the course of his speech, said that chance had brought him to Calcutta and he welcomed that chance because he wished to associate himself with the present meeting When he heard such stories he felt them very keenly and always thought within himself how to stop such occurrences One of his friends in the meeting suggested that there should be an All-India agitation over the matter He accepted the idea but was very sorry to say that such agitation was confined to resolutions and meetings

A resolution entering emphatic protest against the alleged happenings at Midnapore in connection with the recent route marches of troops was adopted at the meeting

APPENDIX D

The report of Nehru's speech at the Albert Hall public meeting of January 18, 1934, as published in the *Amrita Bazar Patrika,* dated January 19

ECONOMIC DISCONTENT, THE CRUX

That economic discontent formed a most prominent factor in the present world movement was stressed by Pandit Jawaharlal Nehru in an address delivered by him at a meeting of students at Albert Hall on Thursday evening

The Hall was quite full The proceedings were disturbed for a while due to the throwing up of a large number of anti-Gandhi leaflets by certain people

Addressing the meeting, Pandit Jawaharlal said that the whole world today was faced with a difficult situation The greatest statesmen of the world were lost in a morass and could not find a way out of it In the course of the last 15 years or so they had seen as many as 133 world conferences which were held to solve the various problems which confronted the world And each one of these 133 conferences had been a total failure.

I wish you to feel that our present position in India is only a part of the international situation Our movement is a freedom movement But we must not forget that it is a part and parcel of the great world movement Unless you can appreciate that, you will never be able to get the key to the Indian situation

Referring to the province of Bengal, the speaker deplored the sporadic acts of terrorism which unfortunately still took place in some parts of the province

Terrorism was a completely futile, ineffective, harmful and out-of-date method in the present stage of their movement The only effective means for them to adopt was mass action and that mass action must be peaceful action

Today at the back of their national movement was the economic discontent Fundamentally, nations desired freedom because of economic causes and, fundamentally, the Indian nation had moved and was moving because of economic discontent If they studied these causes they would inevitably come to the conclusion that today the predominant feature of Indian as well as the world movement was the economic factor It was the economic factor that troubled the European countries and brought them near disaster and it was this that was at the back of their movement Because it was an economic factor, therefore there would be no solution till they found an economic solution of the whole question. His own personal view was that the solution could be found in the socialistic way and a socialistic solution was bound to come sooner or later

They should also remember that India was after all an agricultural country and that any mass movement here depended for its success on the agriculturists and peasants He stressed that their work lay in the villages where these peasants and agriculturists lived.

No amount of orders and ordinances could fill the hungry stomachs in India The economic urge remained within the people and continued to push them This was bound to continue till an economic solution could be found The solution could not be found by merely political methods Though their mass movement had come to a low level today, yet, he hoped, it had the potential spirit in it and any moment it could go up when the time came.

Concluding, the speaker said that the communal question in India was a bogus question—it was a reactionary question It was a question raised by political reactionaries to cloud the real political issues before the country The communal organisations in India, whether Muslim or Hindu, stood for political reaction It was time that young men stood up against them and exposed these tactics He did not like communalism in any way and very much disliked this bogus thing going under the name of communalism

APPENDIX E

"TECHNICALLY UNDER ARREST"

This is the story of two days' detention In the summer of 1946, the people of the princely state of Kashmir were struggling for a democratic form of government Thousands of them had been thrown into jail, and repression had created a reign of terror Sheikh Abdullah was the leader of the movement, and was under trial in June 1946 when Nehru decided to visit Kashmir with a view to acquainting himself with the affairs of the state and to render legal help to the Sheikh Nehru was then president of the All-India States Peoples' Conference and his projected mission to Kashmir was part of his duty as president The Cabinet Mission was then in Delhi, and the most fateful negotiations in the history of India were going on. It was a fundamental consideration with the Congress that in the making of new India, the people of the princely states, and not the princes, should have a say It was this consideration also which impelled Nehru to go to Kashmir

But the Kashmir authorities decided to prevent him from entering the state, and while he was entering the border, they served the following order on him "In exercise of the powers conferred by Rule 24 of the Jammu and Kashmir Defence Rules, read with the notification forming an annexure to Council Order No 281-C of 1942, I, O K Dar, district magistrate, Kashmir Province, Srinagar, hereby direct that Jawaharlal Nehru shall remove himself from the Kashmir province immediately by the Kohala route and shall not return to the Kashmir province without my previous permission in writing"

Nehru declined to obey the order The story which culminated in his detention and subsequent departure in response to a telegram from the Congress President, Maulana Abul Kalam

Azad, was told by Nehru himself on his return to Delhi on June 22

"Our party reached Kohala on June 19 in the afternoon and after lunching at the dak bungalow as we crossed the bridge into Kashmir territory about 2-30 p m, I was served with an order under the Defence of Kashmir Rules asking me to leave Kashmir I said that I was unable to obey that order as I saw no justification for it, and I proposed to remain there The road further on was blocked by a wooden barrier by police and military. Our party sat on the roadside, or in the small customs hut for a long time The district magistrate had said that he would communicate with the higher authorities and asked me to wait for their answer. I agreed to do so

"We grew rather impatient as hour after hour went by and no answer came Ultimately about 7-45 p m, I told the district magistrate that I could not remain like that on the wayside any longer and I proposed to march on foot towards Domel on the Srinagar Road Obviously, I could not go far on foot, and Srinagar was 132 miles further on

"While we were waiting some residents of Kohala, chiefly young men and schoolboys, had gathered and sang national songs and raised the usual slogans. On the police side three lorries had brought a number of people from Srinagar or the neighbourhood with black flags They were shouting 'Jawaharlal, go back' When a police officer raised his hand, they stopped shouting immediately Later, in the evening, some of these black flag demonstrators came to us and apologised privately and said that they had been paid for the occasion

"As I have said, at 7-45, I started marching on the Srinagar Road Others followed me and when we came up to the police and military I pushed ahead in between them So did others Some of the military had bayonets and some had rifles The police had *lathis* The police refrained from using *lathis* except to try to stop us The bayonets were very near us sometimes, but actually there was no injury from them In fact, when one bayonet was within a few inches of me, Dwarkanath Kachru,

who was next to me, diverted it He was arrested soon after. . . Ultimately the magistrate took away the police and military to Domel

" We spent the night at Domel The next morning we were technically under arrest . . At night we were removed from Domel to Uri, 50 miles towards Srinagar A military convoy accompanied us The Uri dak bungalow was converted into a kind of prison, and was guarded by military. There we remained for two days When I received Maulana Saheb's telegram demanding my presence here, I had no alternative but to obey The fact that Sheikh Abdullah's trial had been postponed also made it easy for me to return "

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